

2:18-cr-00112-JCM-VCF - March 14, 2019

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,)
4 Plaintiff,) Case No. 2:18-cr-00112-JCM-VCF
5 vs.)
6 WILLIAM WALLER,)
7 Defendant.)

) Las Vegas, Nevada
) March 14, 2019
) 9:11 a.m. - 2:16 p.m.
) Courtroom 6A
) Jury Trial, Volume IV
) Testimony of William Waller
) **C E R T I F I E D C O P Y**

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9 REPORTER'S **PARTIAL** TRANSCRIPT OF JURY TRIAL, VOLUME IV
10 TESTIMONY OF WILLIAM WALLER
11 BEFORE THE HONORABLE JAMES C. MAHAN
12 UNITED STATES DISTRICT COURT JUDGE

13 APPEARANCES:

14 For the Government: **CHRISTOPHER MAGNANI, ESQ.**
15 **MICHAEL LANDMAN, ESQ.**
16 *U.S. Department of Justice, Tax Division
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17 (Appearances continued on page 2.)

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19
20
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1 APPEARANCES CONTINUED:

2 For the Defendant:

3 **LOWELL HARRISON BECRAFT, JR., ESQ.**

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6 Also Present:

7 *Special Agent Brian Peng, FBI*

8 *Sandra Burgess, Paralegal, DOJ*

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11 **E X H I B I T S**

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WILLIAM WALLER - CONT. DIRECT

1 LAS VEGAS, NEVADA; THURSDAY, MARCH 14, 2019; 9:11 A.M.

2 --oo---

3 P R O C E E D I N G S

4 (Jury in at 9:11 a.m.)

5 **COURTROOM ADMINISTRATOR:** All rise. United States
6 District Court for the District of Nevada is now in session.
7 The Honorable James C. Mahan presiding.

8 **THE COURT:** Thank you. You may be seated.

9 Do the parties stipulate to the presence of the jury
10 and the alternates?

11 **MR. MAGNANI:** Yes, Your Honor.

12 **MR. BECRAFT:** We do, Your Honor.

13 **THE COURT:** All right. I remind you, sir, you're
14 still under oath.

15 **THE DEFENDANT:** Yes, sir.

16 **THE COURT:** You may resume your examination.

17 **MR. BECRAFT:** May it please the Court.

18 **THE COURT:** How much longer are you going to be with
19 this witness?

20 **MR. BECRAFT:** I anticipate maybe 45 minutes to an
21 hour more of direct, Your Honor.

22 **THE COURT:** All right.

23 **CONTINUED DIRECT EXAMINATION**

24 **BY MR. BECRAFT:**

25 Q. Good morning, Mr. Waller.

WILLIAM WALLER - CONT. DIRECT

1 A. Good morning.

2 Q. The last subject of inquiry we left off yesterday was
3 where you were attending a meeting in California and you met
4 Mr. Banister for the first time. So let's start there; okay?

5 A. Okay.

6 Q. Had you had any conversations with Mr. Banister before
7 that time?

8 A. Not -- no, not before I met him.

9 Q. Had you seen any videos of Mr. Banister?

10 A. Yeah. I saw his video that he had -- at We the People in
11 regards to the tax symposiums in Washington, DC.

12 Q. Prior to this meeting with him in person, how much time
13 before that had you watched that video?

14 A. I watched it over and over probably four or five times.

15 Q. My question was: How many years or months before you met
16 him personally did you watch that video?

17 A. It was actually about the same time. I ran into Joe at
18 the same time I actually came across his video.

19 Q. Okay. And after you watched your -- the video, can you
20 relate to us what you learned from watching it?

21 A. He was just reiterating what I had already heard, that
22 there was no liability for the income tax, and that it was
23 basically collected under voluntary provisions. And it was
24 the same stuff that I had heard from Irwin.

25 Q. Were -- what, if any, impression did Mr. Banister make

WILLIAM WALLER - CONT. DIRECT

1 with you when you watched that video?

2 A. It just solidified my beliefs that there is no law that
3 makes me liable for the tax, that it is collected under
4 voluntary compliance, and it was just -- that was my belief
5 structure, and he was just -- he fortified it.

6 **MR. BECRAFT:** Just for the record, Your Honor, I'd
7 move for the admission of a clip. It's proposed
8 Defense Exhibit 513, which we probably already discussed.

9 *(Defense Exhibit No. 513, offered.)*

10 **MR. MAGNANI:** And that's objected to on 403 grounds
11 pursuant to the motion we filed.

12 **THE COURT:** What's Exhibit 513?

13 **MR. BECRAFT:** It was a -- about a less than
14 ten-minute video clip of Mr. Banister --

15 **THE COURT:** All right.

16 **MR. BECRAFT:** -- the one he was referring to.

17 **THE COURT:** So I'm not going to admit that, no.

18 *(Defense Exhibit No. 513, rejected.)*

19 **MR. BECRAFT:** Okay. Yeah.

20 **THE COURT:** That's -- you know, I thought we dealt
21 with that already.

22 **BY MR. BECRAFT:**

23 Q. Now, when you met --

24 **THE COURT:** I sustain the objection based on 403.

25 **MR. BECRAFT:** Understood, Judge.

WILLIAM WALLER - CONT. DIRECT

1 **THE COURT:** That the prejudicial effect outweighs the
2 probative value.

3 Go ahead.

4 **BY MR. BECRAFT:**

5 Q. Now, when you met with him in person, how long did you
6 talk to him?

7 A. Maybe 10 or 15 minutes.

8 Q. And the type of meeting that you attended was similar in
9 nature?

10 A. Yes.

11 Q. Other people talking about taxes?

12 A. Yes, it was.

13 Q. Okay. And the points that you -- let me rephrase that
14 question.

15 Did Mr. Banister tell you that you should file
16 returns?

17 A. No. He didn't say that. He would not recommend that.
18 But that's why the video was important to me because it's --
19 his whole video is not even more than 10 or 15 minutes, but
20 the very fact that he could surmise or cover more of what he
21 was talking about than I could. The truth is that -- what he
22 covered in the video is -- just like I said, he goes over in
23 depth that there is no law that makes you liable for the tax.
24 I mean, that's really what this is all about.

25 **THE COURT:** All right. He can testify as to his

WILLIAM WALLER - CONT. DIRECT

1 state of mind.

2 **MR. BECRAFT:** I'm doing that here, Judge.

3 **BY MR. BECRAFT:**

4 Q. Now, I believe you mentioned yesterday that there was a
5 man by the name of John Turner you had encountered in the
6 past. Am I correct?

7 A. Correct, correct.

8 Q. What were the circumstances under which you first learned
9 of the existence of John Turner?

10 A. He was at the same conference, the Tax Symposiums. He
11 was another IRS agent that was forced with, you know, either
12 to uphold the constitution or basically to resign from his
13 position because he, too --

14 **THE COURT:** Okay. Listen to his question, and answer
15 his question.

16 **THE DEFENDANT:** Okay.

17 **MR. BECRAFT:** Let me rephrase it.

18 **BY MR. BECRAFT:**

19 Q. Give us the year in which you first learned about a man
20 named John Turner.

21 A. I'm going to say 2001.

22 Q. All right. And how did you learn about John Turner?

23 A. Through We the People.

24 Q. And what is it that you learned about John Turner through
25 We the People?

WILLIAM WALLER - CONT. DIRECT

1 A. He was an ex-IRS agent that had resigned his position
2 based on the fact that he could no longer uphold the
3 constitution because of his beliefs that there is no law that
4 requires anybody to pay the income tax.

5 Q. Okay. Was there ever any video that you watched
6 regarding Mr. Turner?

7 A. Yes. There's another video that I wanted to get
8 admitted.

9 Q. Okay. Listen to my questions.

10 When did you watch a video of John Turner?

11 A. He was on the same C-SPAN.

12 Q. Listen to my question.

13 **THE COURT:** The question was when.

14 **THE DEFENDANT:** Oh. Same year. I'm sorry. 2001.

15 **BY MR. BECRAFT:**

16 Q. Okay. And when you watched the video of Mr. John Turner
17 giving a presentation at a meeting?

18 A. It was -- it was the We the People. It was a conference.
19 There was other speakers: Bill Conklin, Bill Benson,
20 Joe Banister, John Turner.

21 **THE COURT:** So the answer is "yes"?

22 **THE DEFENDANT:** Yes.

23 **BY MR. BECRAFT:**

24 Q. And was there anything in the video that you watched of
25 Mr. John Turner that told you that you were required to file

WILLIAM WALLER - CONT. DIRECT

1 income tax returns?

2 A. No.

3 Q. And was the information that was related to on that video
4 by Mr. John Turner the opposite of that?

5 **THE COURT:** He's testified to that already.

6 **MR. BECRAFT:** Your Honor, move for the --

7 **BY MR. BECRAFT:**

8 Q. The video, did it have an impression upon you?

9 A. Yeah, a huge impression.

10 Q. Okay. Did you rely upon the video?

11 A. Yes, I did.

12 **MR. BECRAFT:** Your Honor, I'd move for the admission
13 of Defense Exhibit 514.

14 (*Defense Exhibit No. 514, offered.*)

15 **MR. MAGNANI:** Same objection.

16 **THE COURT:** The video? No.

17 **MR. BECRAFT:** Yeah.

18 **THE COURT:** No.

19 **MR. BECRAFT:** Just making a record.

20 **THE COURT:** I told you I'm not going to allow that.

21 That's like hearsay.

22 (*Defense Exhibit No. 514, rejected.*)

23 **MR. BECRAFT:** Okay. I was offering it for state of
24 mind.

25 **THE COURT:** For --

WILLIAM WALLER - CONT. DIRECT

1 **MR. BECRAFT:** I was offering --

2 **THE COURT:** -- state of mind?

3 **MR. BECRAFT:** Yeah. Both videos for state of mind,
4 Judge.

5 **MR. MAGNANI:** And it's the same 403 objection,
6 Your Honor.

7 **THE COURT:** And it is. The prejudicial effect
8 outweighs the probative value.

9 **MR. BECRAFT:** Okay.

10 **BY MR. BECRAFT:**

11 Q. Now, by the year 2001, you had already watched some
12 videos of John Turner and Joe Banister. 2001 rolls around,
13 December 31st of 2001. What was your belief about the
14 requirement to file income tax returns?

15 A. That there was no law requiring me to file or pay the
16 income tax.

17 Q. How were you working in 2001?

18 A. How was I working?

19 Q. Yes.

20 A. Selling real estate.

21 Q. Making money?

22 A. Yes.

23 Q. Being paid?

24 A. Yes.

25 Q. And did the representations made to you on those videos

WILLIAM WALLER - CONT. DIRECT

1 by John Turner and Joe Banister have an effect upon your
2 decision regarding not filing a return for 2001?

3 A. Yes. I was already a non-filer, but they just -- coming
4 across them just fortified my beliefs.

5 Q. Okay. Were there any other parties that you learned
6 about by watching -- let me back that up.

7 These videos that you've talked about, how many were
8 there?

9 A. Well, there was -- there was quite a few videos, but
10 those were the only two in mention.

11 Q. Okay. Do you -- did you ever watch a video or see a
12 presentation by a lady by the name of Victoria Osborn?

13 A. Yes.

14 Q. And what did you come to understand who the video -- or
15 Victoria Osborn was?

16 A. She is a forensic accountant, and she was also at We the
17 People. And she had the recommendation to have my master file
18 pulled and have it decoded.

19 Q. Had you ever heard of a master file before this lady
20 mentioned it to you?

21 A. Yes, I had heard of it, but I didn't really know what it
22 was.

23 Q. Okay. After you had this -- or after you saw something
24 regarding Victoria Osborn, what was your conclusion about this
25 computer data?

WILLIAM WALLER - CONT. DIRECT

1 A. Well, the first thing I did was I sent in a Freedom --

2 Q. No. Listen to my question. Did you come to an
3 understanding that the IRS had computer data on you?

4 A. Yes.

5 Q. And what did you think -- what were you told what might
6 be in that computer data?

7 A. I was told it was a bunch of cryptic code that no one can
8 really understand, and that you should probably get it
9 requested and have it decoded so you know what they have on
10 you.

11 Q. Did you ever have any opportunity to see some videos of
12 the commissioner of Internal Revenue?

13 A. Yes.

14 Q. And when was that?

15 A. It was in the same time frame, 2000/2001.

16 Q. And from whom did you get a video regarding the
17 commissioner of Internal Revenue?

18 A. I believe that was off of YouTube.

19 Q. And when was it you were watching this video?

20 A. When was it?

21 Q. The commissioner, yes.

22 A. The same time frame.

23 Q. And relate to us what you learned by watching a video of
24 the commissioner of Internal Revenue.

25 A. He was asked a question by David K. Johnson. It was at

WILLIAM WALLER - CONT. DIRECT

1 the tax hearings, and they had asked him -- there's a bunch of
2 people outside wanting to know what law makes them liable for
3 the tax, and his answer was, "Well, I paid my taxes ever since
4 I was a young man and, you know, it's -- it's a construct of
5 the American way." He never answered the question. He was
6 asked what law makes them liable.

7 Q. And were there any other parties that was on that video
8 clip?

9 A. Yeah. His spokesperson.

10 Q. And who is his spokesperson?

11 A. I don't remember her name, but she was asked the same
12 question. And her response was pretty much along the same
13 lines, that -- as a matter of fact, just go to IRS.gov and
14 you'll find out all the information there. She didn't address
15 the issue of the liability issue.

16 Q. Is that video that you watched of the commissioner of
17 Internal Revenue and this other lady, is that something that
18 you relied upon?

19 A. Yes.

20 **MR. BECRAFT:** Your Honor --

21 **BY MR. BECRAFT:**

22 Q. Did it have an impact upon your beliefs about whether or
23 not you were required to file income tax returns?

24 **THE COURT:** Don't ask --

25 **THE DEFENDANT:** Yes.

WILLIAM WALLER - CONT. DIRECT

1 **THE COURT:** -- him leading questions. Let him
2 testify instead of --

3 **MR. BECRAFT:** Okay.

4 **THE COURT:** -- having you testify. I mean, it's --
5 you know --

6 **MR. BECRAFT:** Okay, Judge.

7 **THE COURT:** It's direct examination; right?

8 **MR. BECRAFT:** Yes, it is, Your Honor.

9 **THE COURT:** No cross -- no leading questions; right?

10 **MR. BECRAFT:** Yes, Your Honor.

11 **BY MR. BECRAFT:**

12 Q. What, if any, impact did it have upon your decisions to
13 file income tax returns? Or the video had what impact upon
14 you in filing -- making the decision as to whether or not you
15 should file income tax returns?

16 A. Well, it was the -- the IRS commissioner basically
17 dodging the question of what law made them liable, and it just
18 fortified my position that we're still not getting an answer
19 to that very question.

20 **MR. BECRAFT:** Your Honor, I'd move for the admission
21 of a video clip. It's Defense Exhibit 517.

22 *(Defense Exhibit No. 517, offered.)*

23 **MR. MAGNANI:** Same objection, Your Honor.

24 **THE COURT:** And the same ruling. I think the
25 prejudicial effect outweighs the probative value.

WILLIAM WALLER - CONT. DIRECT

1 (Defense Exhibit No. 517, rejected.)

2 BY MR. BECRAFT:

3 Q. Victoria Osborn told you to get information from the IRS?

4 A. Correct.

5 Q. Identify what information she requested you to get or
6 directed you to get.

8 MR. BECRAFT: Okay.

9 BY MR. BECRAFT:

10 Q. In response to the information that you learned from
11 Victoria Osborn, what, if anything, did you do?

12 A. I sent in a Freedom of Information Act for my master
13 file.

14 Q. And can you explain to the jury what you understand the
15 Freedom of Information Act request is.

16 A. It's a request that you can send in to get data like
17 that, and they will send it to you. But in my case, I
18 actually had them transcribe --

19 **THE COURT:** Answer the question. Next question.

20 MR. BECRAFT: All right.

21 BY MR. BECRAFT:

22 Q. Did you make a Freedom of Information Act request to the
23 IRS?

WILLIAM WALLER - CONT. DIRECT

1 **BY MR. BECRAFT:**

2 Q. And give us the time frame that you recall that you made
3 this request.

4 A. It was for years 1998 through 2008.

5 Q. Okay. I'm asking for the time frame that you submitted
6 to the IRS the request to get that computer data. When was
7 that?

8 A. Well, I had -- I did it on two different occasions. One
9 was in '05 and another one was in '12, I believe.

10 Q. Okay.

11 **MR. BECRAFT:** Can we -- I'm sorry, Judge. I didn't
12 turn on the ELMO.

13 **BY MR. BECRAFT:**

14 Q. I'm going to show to you some exhibits. Did you receive
15 some -- in response to that FOIA request, did you receive some
16 documents from the IRS?

17 A. Yes, I did.

18 Q. And can you describe what those documents were.

19 A. It was my master file with, like I said, codes on it, but
20 then there was also the translation on another page where I
21 had asked the IRS to explain what the codes meant.

22 **MR. BECRAFT:** For the benefit of the witness only.

23 **BY MR. BECRAFT:**

24 Q. Do you see this document that's on the screen?

25 A. Yes, I do.

WILLIAM WALLER - CONT. DIRECT

1 Q. And does it have a date?

2 A. Yes.

3 Q. And what is that date?

4 **THE COURT:** Well, it speaks for itself.

5 **MR. BECRAFT:** Okay.

6 **BY MR. BECRAFT:**

7 Q. What's the exhibit sticker down there at the bottom?

8 **THE COURT:** 518.

9 **THE DEFENDANT:** 518.

10 **BY MR. BECRAFT:**

11 Q. And is this what -- this came in response to your request
12 to the IRS to provide this document?

13 A. Yes. That's one of them.

14 Q. All right. And this exhibit has a second page to it.

15 A. Correct.

16 Q. All right. Is this something that you relied upon in
17 making your decision as to whether or not you were required to
18 file income tax returns?

19 A. Very much.

20 **THE COURT:** That's a leading question again.

21 **MR. BECRAFT:** Your Honor, I'd move for the admission
22 of proposed Defense Exhibit 518.

23 (*Defense Exhibit No. 518, offered.*)

24 **MR. MAGNANI:** No objection.

25 **THE COURT:** Thank you. Exhibit 518 may be admitted

WILLIAM WALLER - CONT. DIRECT

1 and published to the jury.

2 (Defense Exhibit No. 518, received.)

3 **BY MR. BECRAFT:**

4 Q. Now, Mr. Waller, I have here on the screen Exhibit 518,
5 the first page. Does it relate to you?

6 A. Yes, it does.

7 Q. And how do you know that?

8 A. It has my name on it.

9 Q. It has your address?

10 A. Yes.

11 Q. What was important to you? Can you point out, identify
12 for us, tell us, this document has that was something of
13 significance to you.

14 A. Towards the middle column under where it says, "Prior
15 Name Control," it says, "MFR-01."

16 Q. Okay. What --

17 A. Right.

18 Q. Is my pen --

19 A. Right there. That's it.

20 Q. Okay. Now, it has a date on it up here where my pen is.

21 A. Correct.

22 Q. Would it be fair to say that sometime after that you
23 received this document?

24 A. Yeah, about that time.

25 Q. All right. The second page of this exhibit, can you

WILLIAM WALLER - CONT. DIRECT

1 point out what was important.

2 A. Right there at the bottom where it says MFR-01, the IRS
3 decrypted it for me, and it says, "Mail File Requirement" --

4 **THE COURT:** Where are you reading? Are you reading
5 from the exhibit?

6 **THE DEFENDANT:** Yes, sir.

7 **BY MR. BECRAFT:**

8 Q. Is my pen pointed in the right place?

9 A. Yes.

10 **THE COURT:** Okay. So the jury can follow along.

11 Go ahead.

12 **THE DEFENDANT:** It says, "Mail File Requirement:
13 01= Return not required to be mailed or filed." And then it
14 in parentheses it says, "1040 not required."

15 **BY MR. BECRAFT:**

16 Q. Now, the year that this related to, was it this year?

17 A. Yes.

18 Q. That was one of the years that was contained in your
19 Freedom of Information Act request, 1998?

20 A. Yeah, it was the first year.

21 Q. Did you ask for other years?

22 A. Yeah. From 1998 to 2008.

23 **MR. BECRAFT:** For the benefit of the witness only.

24 **BY MR. BECRAFT:**

25 Q. Is this another page that was mailed to you in response

WILLIAM WALLER - CONT. DIRECT

1 to your Freedom of Information Act request?

2 A. Yes.

3 Q. Proposed Exhibit 519; right?

4 A. Yes. I'm sorry.

5 Q. Is this another similar document?

6 A. Yeah, it's similar. It's just a different year.

7 **MR. BECRAFT:** Okay. Your Honor, I'd move for the
8 admission of 519.

9 (*Defense Exhibit No. 519, offered.*)

10 **MR. MAGNANI:** No objection.

11 **THE COURT:** Thank you. Exhibit 519 may be admitted
12 and published -- will be admitted and may be published.

13 (*Defense Exhibit No. 519, received.*)

14 **MR. BECRAFT:** Yes, Your Honor.

15 **BY MR. BECRAFT:**

16 Q. Now, Exhibit No. 519 relates to what year?

17 A. 1999.

18 Q. And can you point out on the screen for us what you found
19 significant on this page.

20 A. It's the same middle column, right under "Prior Name
21 Control," the "MFR-01."

22 Q. Is that where my pen is pointed?

23 A. That's right.

24 Q. Page 2 of this exhibit, can you point out what was
25 important for you on the second page?

WILLIAM WALLER - CONT. DIRECT

1 A. Yep. It's at the bottom. It was the decoding. "MFR 01,
2 Mail File Requirement." Again, "01= Return not required to be
3 mailed or filed. (1040 not required.)"

4 Q. And the date of this document, was it the same as the
5 others?

6 A. Yes.

7 Q. In the same package --

8 **MR. BECRAFT:** For the benefit of the witness only.

9 **BY MR. BECRAFT:**

10 Q. -- did you receive this?

11 A. Yes. 2000.

12 Q. Exhibit No. 520?

13 A. Yes.

14 Q. Is this something you relied upon as well?

15 A. Absolutely.

16 **MR. BECRAFT:** Your Honor, I'd move for the admission
17 of 520.

18 (*Defense Exhibit No. 520, offered.*)

19 **MR. MAGNANI:** No objection.

20 **THE COURT:** Exhibit 520 will be admitted and may be
21 published.

22 (*Defense Exhibit No. 520, received.*)

23 **BY MR. BECRAFT:**

24 Q. On the first page of Exhibit No. 520, can you tell me
25 where to point my pen of whatever was significant on this

WILLIAM WALLER - CONT. DIRECT

1 page?

2 A. Again, the MFR requirement under "Prior Name Control."

3 Q. Okay. Is my pen pointed in the right direction?

4 A. Yeah. "MFR-01."

5 Q. Turning to page 2 of Exhibit 520, am I in the right spot?

6 Is my pen pointed in the right place?

7 A. That's it.

8 Q. What was significant on the second page of this exhibit,
9 can you tell the jury?

10 A. Yes. The same decoding for that requirement, MFR-01,
11 "= Return not required to be mailed or filed. (1040 not
12 required.)"

13 **MR. BECRAFT:** For the witness only, I have 521 on the
14 screen.

15 **BY MR. BECRAFT:**

16 Q. Was this in the same package?

17 A. Yes.

18 Q. Is this something you relied upon?

19 A. Yes.

20 **MR. BECRAFT:** Your Honor, I'd move for the admission
21 of 521.

22 (*Defense Exhibit No. 521, offered.*)

23 **MR. MAGNANI:** No objection.

24 **THE COURT:** 521 may be admitted.

25 (*Defense Exhibit No. 521, received.*)

WILLIAM WALLER - CONT. DIRECT

1 **BY MR. BECRAFT:**

2 Q. Can you point out on the first page of 521 what is
3 significant? Is my pen pointed in the right place?

4 A. Yes, that's right.

5 Q. And what -- my pen is pointed to what?

6 A. The MFR code 01.

7 Q. Moving to the second page of this exhibit, is my pen
8 pointed in the right place?

9 A. Yes.

10 Q. And what does it say?

11 A. "Mail File Requirement: 01= Return not required to be
12 mailed or filed. (1040 not required.)"

13 **MR. BECRAFT:** For the benefit of the witness only.

14 **BY MR. BECRAFT:**

15 Q. Showing to you 522. Was this in the same package?

16 A. Yes.

17 **MR. BECRAFT:** Your Honor, I'd move for the admission
18 of 522.

19 *(Defense Exhibit No. 522, offered.)*

20 **MR. MAGNANI:** No objection.

21 **THE COURT:** Thank you. The same may be admitted --
22 will be admitted and may be published.

23 *(Defense Exhibit No. 522, received.)*

24 **BY MR. BECRAFT:**

25 Q. Is my pen pointed in the right place?

WILLIAM WALLER - CONT. DIRECT

1 A. Yes. "MFR-01."

2 Q. On the first page of Exhibit 522, what year does this
3 relate to? Can you point out on the screen?

4 A. 2002 in the upper-right.

5 Q. Is my pen pointed in the right place?

6 A. Yes.

7 Q. Okay. So for 2002 you saw this MFR-01. And on the
8 second page of this exhibit, is my pen pointed in the right
9 place?

10 A. Yes.

11 Q. And is -- can you read it for us, please.

12 A. Yep. "Mail File Requirement." Again, "01= Return not
13 required to be mailed or filed. (1040 not required.)"

14 Q. In the same package, did you get what --

15 **MR. BECRAFT:** For the witness only, Exhibit 523.

16 **BY MR. BECRAFT:**

17 Q. You got Exhibit 523 in the same package?

18 A. Yes.

19 **MR. BECRAFT:** Your Honor, I'd move for the admission
20 of 523.

21 (*Defense Exhibit No. 523, offered.*)

22 **MR. MAGNANI:** No objection.

23 **THE COURT:** Thank you. The same will be admitted and
24 may be published.

25 (*Defense Exhibit No. 523, received.*)

WILLIAM WALLER - CONT. DIRECT

1 **BY MR. BECRAFT:**

2 Q. See where my pen is?

3 A. Yes.

4 Q. What year does this exhibit relate to?

5 A. 2003.

6 Q. And is my pen pointed in the right place for what you
7 found significant?

8 A. Yes. "MFR-01" again.

9 Q. And pointing to the second page where there was an
10 explanation of that computer code, is my pen in the right
11 place?

12 A. Yes.

13 Q. And can you read to the jury what it is.

14 A. "MFR 01," that was the code on the front, "Mail File
15 Requirement: 01= Return is not required to be mailed or
16 filed. (1040 not required.)"

17 **MR. BECRAFT:** For the benefit of the witness only.

18 **BY MR. BECRAFT:**

19 Q. Do you see Exhibit 524 on the screen?

20 A. Yes.

21 **MR. BECRAFT:** Your Honor, I'd move for the admission
22 of 524.

23 (*Defense Exhibit No. 524, offered.*)

24 **MR. MAGNANI:** No objection.

25 **THE COURT:** All right. 524 will be admitted and may

WILLIAM WALLER - CONT. DIRECT

1 be published.

2 (Defense Exhibit No. 524, received.)

3 **BY MR. BECRAFT:**

4 Q. Is my pen pointed in the right place?

5 A. Yes, 2004.

6 Q. This computer data relates to the year 2004?

7 A. Yes.

8 Q. All right. Is my pen pointed in the right place here?

9 A. Yes, "MFR-01."

10 Q. And turning to the second page of this exhibit, is my pen
11 pointed in the right place?

12 A. Yes. "MFR 01, Mail File Requirement: 01= Return not
13 required to be mailed or filed. (1040 not required.)"

14 Q. Did you receive similar information regarding the year
15 2005 --

16 A. Yes.

17 Q. -- in that package?

18 **MR. BECRAFT:** Your Honor, I move for the admission of
19 525.

20 (Defense Exhibit No. 525, offered.)

21 **MR. MAGNANI:** No objection.

22 **THE COURT:** Thank you. Exhibit 525 will be admitted
23 and may be published.

24 (Defense Exhibit No. 525, received.)

25 ///

WILLIAM WALLER - CONT. DIRECT

1 **BY MR. BECRAFT:**

2 Q. My pen, is it pointed in the right place?

3 A. Yes. 2005.

4 Q. So this relates to the year 2005?

5 A. Yes.

6 Q. Were you working in the year 2005?

7 A. Yes.

8 Q. For whom?

9 A. Century 21.

10 Q. At the end of the year, did Century 21 send any tax
11 documents to you?

12 A. 1099, yes.

13 Q. And what's your understanding as to who also got a copy
14 of that 1099?

15 A. The IRS.

16 Q. And when did you receive that 1099 from that real estate
17 agency after the year -- after December 31st of 2005?

18 A. In the first part of January in 2006.

19 Q. Okay. Is it your understanding that your copy and the
20 copy to the IRS is mailed at the same time?

21 A. Yes.

22 Q. What's the date on this document that it was printed out,
23 to your understanding?

24 A. May 16th, 2008.

25 Q. So for the year 2005, my pen's pointed in the right

WILLIAM WALLER - CONT. DIRECT

1 place, "MFR-01"?

2 A. Yes, "MFR-01."

3 Q. And on the second page of this exhibit, is what's shown
4 on the screen and where my pen is pointed, is that in the
5 right place?

6 A. It is. MFR 01 equals return not required to be mailed or
7 filed, a 1040 is not required.

8 **MR. BECRAFT:** For the benefit of the witness only.

9 **BY MR. BECRAFT:**

10 Q. 526 is the next exhibit?

11 A. Yes.

12 Q. This is what was received at the same time?

13 A. Yes.

14 Q. All right.

15 **MR. BECRAFT:** Your Honor, I'd move for the admission
16 of 526.

17 (*Defense Exhibit No. 526, offered.*)

18 **MR. MAGNANI:** No objection.

19 **THE COURT:** Thank you. 526 will be admitted and may
20 be published.

21 (*Defense Exhibit No. 526, received.*)

22 **BY MR. BECRAFT:**

23 Q. 526 relates to what year?

24 A. 2006.

25 Q. Is my pen pointed in the right place?

WILLIAM WALLER - CONT. DIRECT

1 A. Yes.

2 Q. What's the print date? Is my pen pointed in the right
3 place?

4 A. 5/16/2008.

5 Q. All right. Is my pen pointed in the right place for what
6 you found significant on this exhibit?

7 A. Yes. "MFR-01."

8 Q. The second page, is my pen pointed in the right place?

9 A. Yes.

10 Q. So for the year 2006, you got this document from the IRS
11 relating to the year 2006, and it was translated into this?

12 A. Yes. That the return is not required --

13 **THE COURT:** That's all right. The exhibit speaks for
14 itself. It's in evidence.

15 **BY MR. BECRAFT:**

16 Q. Where were you working in 2006?

17 A. Century 21.

18 Q. And after Century -- at the end of the year, what, if
19 anything, did the real estate agency known as Century 21 do in
20 reference to sending you tax information?

21 A. They sent me and the IRS a 1099 for that year.

22 Q. Reporting all that you'd been paid that year?

23 A. Correct.

24 Q. So what was the time frame in which you would have
25 received that document from that real estate agency?

WILLIAM WALLER - CONT. DIRECT

1 A. January of the following year.

2 **MR. BECRAFT:** For the benefit of the witness only,
3 527.

4 **BY MR. BECRAFT:**

5 Q. Is this something you relied upon, too?

6 A. I don't see anything. Oh, yeah.

7 **MR. BECRAFT:** Your Honor, I'd move for the admission
8 of 527.

9 (*Defense Exhibit No. 527, offered.*)

10 **MR. MAGNANI:** Without objection.

11 **THE COURT:** Thank you. 527 will be admitted and may
12 be published.

13 (*Defense Exhibit No. 527, received.*)

14 **BY MR. BECRAFT:**

15 Q. Okay. Is my pen pointed in the right place for what the
16 print date of this document is?

17 A. Yes, 5/16/2008.

18 Q. All right. Is my pen pointed in the right place for what
19 you found significant on this exhibit?

20 A. Yes, another MFR code 01.

21 Q. All right. Is my pen pointed in the right place for the
22 year that this relates to?

23 A. Yes, 2007.

24 Q. All right. And was there, with this particular document,
25 an explanation of the computer transaction that appeared on

WILLIAM WALLER - CONT. DIRECT

1 this document for the year 2007?

2 A. I don't believe so.

3 Q. Okay. What did you think that this meant, where my pen
4 is pointed, that MFR-01?

5 A. The same thing that --

6 **THE COURT:** Well, wait just a second. What did he
7 think?

8 **MR. BECRAFT:** Let me rephrase it, Judge.

9 **BY MR. BECRAFT:**

10 Q. What did you believe?

11 A. Well, I believe it's the same code for all the other
12 prior years; that no 1040 was required from me.

13 Q. Now, this relates to the year 2007; is that your
14 understanding?

15 A. Yes.

16 Q. Is the print date of this document where my pen is
17 pointed?

18 A. Yes.

19 Q. May 18th -- May 16th of 2008?

20 A. Yes.

21 Q. Where were you working in 2007?

22 A. Century 21.

23 Q. At the end of the year of 2007, did Century 21 mail you
24 any tax information?

25 A. Yes.

WILLIAM WALLER - CONT. DIRECT

1 Q. And what was that?

2 A. 1099.

3 Q. And to your knowledge, did the IRS receive a copy of that
4 1099?

5 A. Yes.

6 **THE COURT:** How would he know that?

7 **MR. BECRAFT:** It's a presumption, Your Honor, not --
8 I'll clarify it.

9 **BY MR. BECRAFT:**

10 Q. You have -- these questions I've asked about the tax
11 documents that were mailed to you by the companies that you
12 worked for, you only know that you received one, a 1099?

13 A. Yes.

14 Q. Do you have any personal knowledge about the IRS
15 receiving a 1099?

16 A. Not at that time, no.

17 Q. Okay.

18 **MR. BECRAFT:** For the benefit of the witness only,
19 Exhibit 528.

20 Your Honor, I'd move for the admission of 528.

21 (*Defense Exhibit No. 528, offered.*)

22 **MR. MAGNANI:** No objection.

23 **THE COURT:** Thank you. Exhibit 528 will be admitted
24 and may be published.

25 (*Defense Exhibit No. 528, received.*)

WILLIAM WALLER - CONT. DIRECT

1 **BY MR. BECRAFT:**

2 Q. Now, for all of these documents that you received that
3 we've just gone over, the computer data, the FOIA request that
4 you made was before this date on the screen?

5 A. Yes.

6 Q. May 16th of 2008?

7 A. Correct.

8 Q. And how much time elapsed between when you sent in that
9 FOIA request and you received this package of information?

10 A. I believe it was a few months.

11 Q. So your request would have been made in the early part of
12 2008?

13 A. Yeah, I believe so. I'm not sure.

14 Q. But when it was received and you were looking at -- this
15 relates to what years? Is my pen pointed in the right place?

16 A. Yes, 2008.

17 Q. All right. Is my pen pointed in the right place for the
18 symbol computer -- computer symbol that you found significant?

19 A. Yes. "MFR-01."

20 Q. Was -- for this year, was there any document that was
21 provided that was similar to the earlier years?

22 A. Just the first page with the code. It was -- it was too
23 early for the translation because it hadn't been processed yet
24 because of the time of year.

25 Q. What did you think that this -- where my pen is pointed,

WILLIAM WALLER - CONT. DIRECT

1 "MFR-01," mean?

2 A. It's the MFR-01 where no return was required to be mailed
3 or filed.

4 Q. You draw that conclusion from the similar pages for the
5 prior years?

6 A. Yes.

7 Q. Where were you working in 2008 -- or -- yeah, 2008?

8 A. Century 21.

9 Q. Now, the year 2008 ends, December 31st, 2008. You had
10 been working for a real estate agency that year. April 15th
11 of 2009 comes along. Did you or did you not file a return for
12 2008?

13 A. I did not.

14 Q. Can you tell the jury why?

15 A. Because I still believe that, even with this decoding,
16 that I am not required to file. I believe that it's still an
17 MFR-01 even to this day, which means I am not required to file
18 a return as the IRS stated in their own documents.

19 Q. 2009, where were you working?

20 A. Century 21.

21 Q. Had you, at that time, formed your own independent real
22 estate agency?

23 A. Not yet, no.

24 Q. All right. When did that happen?

25 A. I believe it was in 2012.

WILLIAM WALLER - CONT. DIRECT

1 Q. So for 2009, 2010, 2011, you were still working for
2 Century 21?

3 A. Correct.

4 Q. And Century 21 was giving you checks?

5 A. Yes.

6 Q. At -- to ask a question related to all those years, when
7 April 15th of the -- for each of these, after the year
8 concluded, what did you believe about your requirement to file
9 federal income tax returns?

10 A. I still believe that I was not required to file.

11 Q. 2011, what were you doing during the year 2011?

12 A. Selling real estate.

13 Q. How much time did you devote, during the year 2011, to
14 your work of selling real estate?

15 A. It was the full year.

16 Q. A typical week, how much time would you expend working?

17 A. A typical week is, you know, 30 to 50 hours just
18 depending on the workload.

19 Q. Would it be fair to say virtually every week during 2011
20 you were working?

21 A. Correct.

22 Q. All right. And at the end of the year, December 31st
23 comes along, sometime thereafter did the company that you were
24 working for, Century 21, in January 2012 send you anything?

25 A. Another 1099 for that year, previous year.

WILLIAM WALLER - CONT. DIRECT

1 Q. And did you look at that 1099 when you received it?

2 A. Of course.

3 Q. Did it appear to you to be inaccurate?

4 A. No, it didn't appear to be inaccurate.

5 Q. Did it fairly represent what the company had paid to you
6 during the year 2011?

7 A. Yes.

8 Q. Now, April the 15th of 2012 comes along. Can you explain
9 to the jury the reasons why you did not file a return for
10 2011?

11 A. Because I am still under the belief that I was not
12 required to file a 1040. Even as per the IRS's own paperwork
13 that they sent me, to this day they still have not showed me
14 where I am actually liable to pay income tax.

15 Q. 2012, in early 2012 were you still working for
16 Century 21?

17 A. Yes.

18 Q. How long during that year did you work for Century 21?

19 A. It was a couple of months, two or three months, I
20 believe, before we started on our own.

21 Q. Okay. Tell the jury what it is that you started on your
22 own.

23 A. Platinum Properties.

24 Q. And Platinum Properties, was that a company?

25 A. Yeah. Another real estate office.

WILLIAM WALLER - CONT. DIRECT

1 Q. And was Platinum Properties an organization that had been
2 created by you, or does it have a different owner, so to
3 speak?

4 A. Well, Burbank Holdings is the entity. Burbank Holdings
5 is doing business as Platinum Properties.

6 Q. Okay. When was Burbank Holdings created?

7 A. I believe 2004.

8 Q. And who created it?

9 A. I did.

10 Q. And with what state did you -- under the laws of what
11 state did you create it?

12 A. It's an LLC in the state of Nevada.

13 Q. Between the time that you created it on all the -- all
14 the way up until the early part of 2012, what was
15 Burbank Holdings really doing?

16 A. Burbank Holdings is the entity that -- when in real
17 estate, it's a protection device. So for -- if you're opening
18 up corporate bank accounts, if you're going to purchase
19 property, if you're going to accept funds from clients, you
20 actually have to have it in a corporate bank account. You
21 can't have it in your own name; otherwise, it's considered
22 commingling. So that was the primary function of it.

23 Q. Okay. And why would you not do it in your own name?

24 A. Because the Real Estate Division won't allow you to
25 commingle funds -- other people's funds with your own funds.

WILLIAM WALLER - CONT. DIRECT

1 Q. Now, did Burbank Holdings have a bank account when it was
2 created in 2004?

3 A. It -- once the entity was created, it then -- it then got
4 a bank account, yes.

5 Q. All right. And after it was created and it opened up a
6 bank account, what was the source of the deposits that were
7 made into that account?

8 A. Commission checks mainly.

9 Q. So you were working for real estate agencies at the time?

10 A. Yes.

11 Q. And an account existed in the name of Burbank Holdings?

12 A. Correct.

13 Q. Were checks being made payable to you or to
14 Burbank Holdings?

15 A. To Burbank Holdings.

16 Q. Okay. And for these -- for these real estate agencies
17 that you were working for, Century 21 and the other one, why
18 were they paying Burbank Holdings rather than you?

19 A. Because that's the way that it was structured on a W-9.
20 It was -- Burbank Holdings was the withholding agent.

21 Burbank Holdings was the one that had the accounts. That's
22 why Burbank Holdings came into existence to begin with.

23 Q. Okay. And I don't want to ask the same question for all
24 years, but that, that you've just described, your method of
25 operation, did it continue through 2006, 2007, 2010, '11?

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1 A. Yes. There was a couple of other accounts added just
2 because, when we got into property management, now we're
3 dealing with security deposit, rental checks. Those can't be
4 commingled with the regular corporate account. So there was
5 additional accounts.

6 Q. Okay. What were the other entities that you created
7 during this period of time besides Burbank Holdings?

8 A. Burbank Holdings and Burbank Holdings 1. The other
9 entities, Big Sky REI, was created later. That was -- that
10 was an LLC that was going to be used for investments in land.
11 And then GB Holdings wasn't even mine. And then there was
12 another one, My Three Sons. The two main ones were
13 Burbank Holdings and Burbank Holdings 1.

14 Q. All right. But this -- you created an LLC up in
15 Montana --

16 A. Correct.

17 Q. -- did you not?

18 And when did that happen?

19 A. I believe it was early or mid 2000s.

20 Q. And what was the purpose of creating a Montana LLC if you
21 lived down here in Nevada?

22 A. It was going -- we were going to be purchasing land up
23 there. And as a matter of fact, that LLC never got used for
24 anything; no land, no bank accounts, nothing.

25 Q. Now, between -- in the early 2000s or out through, you

WILLIAM WALLER - CONT. DIRECT

1 know, 2000 through 2010, were you and your dad contemplating
2 working together in real estate?

3 A. Yeah. That was actually the creation of
4 Burbank Holdings 1. That was -- the only reason that one came
5 to be is because we were going to do remodeling of homes and
6 foreclosures, just like we were doing in Pennsylvania, and we
7 were -- it was going to be held in that entity, which was
8 going to be separate from the Burbank Holdings corporate
9 account.

10 Q. Did you and your dad ever do anything like that?

11 A. No. That LLC actually expired. We never -- we had
12 offers in on a few properties, but they never went through and
13 we never picked it up.

14 Q. Have you ever received documents known as notices of
15 deficiency from the Internal Revenue Service?

16 A. I have.

17 Q. And the first one you received related to what years?

18 A. The very first one, I believe, was in regards to the 1998
19 filing.

20 **MR. BECRAFT:** Could the witness be shown government
21 exhibit -- we'll probably have to transition. I've got a
22 series of...

23 Could the witness be shown Government Exhibit 1?

24 **BY MR. BECRAFT:**

25 Q. Mr. Waller, this exhibit has been previously admitted

WILLIAM WALLER - CONT. DIRECT

1 into evidence. Can you tell us what year it relates to?

2 **MR. MAGNANI:** Just I don't believe it's in evidence,
3 actually.

4 **THE COURT:** I don't think it has been --

5 **MR. MAGNANI:** Do you want to move it in?

6 **MR. BECRAFT:** Well, it's probably going to come in --
7 may as well, Judge. Yeah, I move for 1 to be admitted.

8 (Government Exhibit No. 1, offered.)

9 **MR. MAGNANI:** If I could just take a second to look
10 at it.

11 **THE COURT:** I can't hear what you're saying. You
12 need to be by the microphone.

13 **MR. BECRAFT:** I thought it was, but now he -- he's
14 probably got better notes than I have, Judge.

15 **THE COURT:** Nick, do you have it down as being
16 admitted?

17 **COURTROOM ADMINISTRATOR:** I do not, Your Honor.

18 **MR. BECRAFT:** Okay. Well, to move on, Judge. If
19 they want to do it on cross, I'll move on, Judge.

20 **THE COURT:** I don't know that they do. Do you want
21 the exhibit admitted or not?

22 **MR. MAGNANI:** I mean, we don't. We just want to
23 see --

24 **THE COURT:** I'm not talking to you. I'm talking to
25 Mr. Becraft.

WILLIAM WALLER - CONT. DIRECT

1 **MR. BECRAFT:** It's their exhibit. It's --

2 **THE COURT:** I understand. You want it admitted?

3 **MR. BECRAFT:** Yes, Your Honor.

4 **MR. MAGNANI:** Without objection.

5 **THE COURT:** No objection?

6 **MR. MAGNANI:** No objection.

7 **THE COURT:** All right. Then Exhibit 1 will be
8 admitted.

9 *(Government Exhibit No. 1, received.)*

10 **BY MR. BECRAFT:**

11 Q. Mr. Waller, what's the date of this document?

12 A. June 7 --

13 **THE COURT:** The exhibit speaks for itself.

14 **MR. BECRAFT:** Well, he's testified that he received a
15 notice of deficiency for 2003, and I'm asking if he can tell
16 us about when it was that he received it, which would be
17 indicated by the exhibit.

18 **THE DEFENDANT:** June 7th, 2005.

19 **MR. BECRAFT:** Can the witness be shown -- I think
20 this is only a three-page document. Can the witness be shown
21 the remaining two pages?

22 **THE COURT:** Well, the exhibit itself is admitted. So
23 all of the -- it can be shown to everybody.

24 **BY MR. BECRAFT:**

25 Q. Now, what -- when you received this, were you trained or

WILLIAM WALLER - CONT. DIRECT

1 had you done any studying in what to do when you received a
2 notice of deficiency from the IRS?

3 A. Had I had any training on what to do with it?

4 Q. Well, had you studied the issue, what you should do when
5 you receive a document like this?

6 A. Well, I actually requested a collection due process
7 hearing in regards to receiving the notice.

8 Q. And generally what happened? Shortly after you received
9 this, you said you asked for a CDP hearing. What happened
10 when you did that?

11 A. The CDP hearing was requested, and I'm not sure if this
12 is the one that I'd actually -- I've only ever had one CDP
13 hearing over the last 20 years, but I have requested at least
14 five. And if this is in regards to the 1998 -- I can't tell
15 if this is --

16 **THE COURT:** Listen to his question, and answer his
17 question.

18 **MR. BECRAFT:** Well, okay. I can do -- move on.

19 Can the witness be shown --

20 **THE COURT:** Well, your question was what did you --
21 what happened then? What happened next?

22 **MR. BECRAFT:** Can the witness be shown
23 Government Exhibit 156?

24 **THE COURT:** You want to just skip this?

25 **MR. BECRAFT:** We've already admitted that --

WILLIAM WALLER - CONT. DIRECT

1 **THE COURT:** 156 -- 156 --

2 **MR. BECRAFT:** -- exhibit. Now moving on to the next
3 exhibit --

4 **THE COURT:** That's fine. Exhibit --

5 **MR. BECRAFT:** -- that happens to be --

6 **THE COURT:** -- 156.

7 **MR. BECRAFT:** -- one of the government's exhibits.

8 **THE COURT REPORTER:** One at a time, please.

9 **MR. BECRAFT:** Oh.

10 **THE COURT:** You know, when you talk over me, do you
11 know which one of us she takes down?

12 **MR. BECRAFT:** I'm --

13 **THE COURT:** Yeah, she takes me down.

14 **MR. BECRAFT:** It's a common experience.

15 **THE COURT:** All right. 156? Is this admitted, Nick?

16 **COURTROOM ADMINISTRATOR:** No, Your Honor.

17 **MR. BECRAFT:** Oh. Then just show it to the witness.

18 **BY MR. BECRAFT:**

19 Q. You just mentioned that, in response to the year 2003,
20 you made a request of the IRS.

21 A. Correct.

22 Q. Is that this document on the screen?

23 A. Yes.

24 Q. The date is what?

25 A. August 22nd, 2007.

WILLIAM WALLER - CONT. DIRECT

1 **MR. BECRAFT:** Your Honor, I'd move for the admission
2 of Government Exhibit 156.

3 *(Government Exhibit No. 156, offered.)*

4 **MR. MAGNANI:** No objection.

5 **THE COURT:** Thank you. Exhibit 156 will be admitted
6 and may be published.

7 *(Government Exhibit No. 156, received.)*

8 **MR. BECRAFT:** Thank you.

9 **BY MR. BECRAFT:**

10 Q. Now, can you kind of tell us what it is you're trying to
11 accomplish by means of this letter that you sent to the IRS?

12 A. Yes. I was requesting a hearing in regards to the final
13 notice of intent to levy for the year 2003.

14 Q. What was your understanding about your exercise of the
15 right to get a collection due process hearing? What did you
16 know about collection due process hearings --

17 A. Well --

18 Q. -- when you sent this letter?

19 A. -- the hearing was a chance for me to sit with the
20 appeals officer and challenge the underlying tax liability.
21 For that year as well I wasn't required to file, but yet I had
22 been assessed. And there was a list of items I wanted to have
23 at the hearing, and I don't believe I actually -- I don't
24 think I actually got that hearing.

25 Q. Okay.

WILLIAM WALLER - CONT. DIRECT

1 **MR. BECRAFT:** You can take it off the screen.

2 Can the witness be shown -- this one's been admitted
3 into evidence -- Government's Exhibit 3. Can we see the
4 second page?

5 **BY MR. BECRAFT:**

6 Q. Mr. Waller --

7 A. Yes.

8 Q. -- this is an exhibit that's been admitted into evidence.

9 A. Right.

10 Q. What is your understanding as to the years that it
11 relates to?

12 A. This is for the years '04, '05, '06.

13 **MR. BECRAFT:** And could the witness be shown the next
14 page?

15 **THE DEFENDANT:** And '07, '08, and '09.

16 **BY MR. BECRAFT:**

17 Q. And what is your understanding as to the date of this
18 letter?

19 A. There is no date on this letter, and there is no date on
20 when to petition tax court.

21 Q. All right.

22 **MR. BECRAFT:** Could the witness be shown the first
23 page of this exhibit?

24 **BY MR. BECRAFT:**

25 Q. Now, you see the first page of Government Exhibit 3 on

WILLIAM WALLER - CONT. DIRECT

1 the screen?

2 A. Yes.

3 Q. Looking at the top, which we happen to have in yellow, do
4 you see your name?

5 A. Yes.

6 Q. Is the street address, Las Vegas, is that correct?

7 A. Yes.

8 Q. Over the years, has all of the communications back and
9 forth between you and the IRS, have you used this particular
10 address?

11 A. Yes.

12 Q. So this is not an incorrect address?

13 A. No, not at all.

14 Q. Did you ever receive -- see the numbers out on the first
15 page of Government Exhibit 3, the letters that are, for our
16 purposes, bolded in yellow, but there's a series of numbers in
17 the upper, left-hand corner. Do you see those numbers?

18 A. In the upper left, yes.

19 Q. Did you ever receive any communications from the IRS that
20 had those numbers on it?

21 A. You mean the certified mail receipt number? No. No.

22 Q. Okay. Mr. Waller, did you ever receive this letter right
23 here?

24 A. No, I did not.

25 **MR. BECRAFT:** Can the witness be shown

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1 Government Exhibit 192?

2 **THE COURT:** How much longer are you going to be with
3 this witness?

4 **MR. BECRAFT:** Probably 20 minutes, Judge.

5 **THE COURT:** Because an hour ago you said it would be
6 45 minutes.

7 **MR. BECRAFT:** I know.

8 **THE COURT:** All right.

9 **MR. BECRAFT:** You know how lawyers are. They get --

10 **THE COURT:** Pardon me?

11 **MR. BECRAFT:** You know how lawyers can get
12 long-winded.

13 **THE COURT:** No. Gosh. News to me.

14 What did you want now? 192?

15 **MR. BECRAFT:** Do we have that exhibit? Aah.

16 **BY MR. BECRAFT:**

17 Q. Have you had the opportunity, prior to coming to court,
18 to look at this Exhibit 182 [sic]?

19 A. I got this exhibit in discovery, so yes.

20 Q. Okay. And --

21 **THE COURT:** This is 192, I thought.

22 **MR. BECRAFT:** Oh. Yes, Your Honor. I wasn't looking
23 down closely at the number.

24 **THE DEFENDANT:** I thought he was talking about the
25 one on the screen.

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1 **THE COURT:** That's what I --

2 **MR. BECRAFT:** Yeah, I'm talking about 192. And I
3 misspoke.

4 **THE COURT:** Oh that's fine. I want the record to be
5 clear. That's all.

6 **MR. BECRAFT:** Can you go to the second page of
7 Exhibit No. 192. Third page. Fourth page. Fifth page.

8 **BY MR. BECRAFT:**

9 Q. Did you ever receive this in the mail from the IRS?

10 A. No.

11 **MR. BECRAFT:** Now, can the witness be shown
12 Government Exhibit No. 150?

13 **BY MR. BECRAFT:**

14 Q. Have you seen this Government Exhibit 150 previously?

15 A. Yes.

16 Q. And the date of it's 9/11 of 2014?

17 A. Correct.

18 Q. Notice of intent to levy?

19 A. Right.

20 **MR. BECRAFT:** Can we move down a little bit further
21 down the page?

22 **BY MR. BECRAFT:**

23 Q. And what is your recollection as to the year that this
24 related to?

25 **THE COURT:** Well, if he's never seen it before, he

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1 wouldn't have any understanding.

2 **MR. BECRAFT:** I thought he said he had received
3 this -- let me clarify the record. If the Court didn't catch
4 it --

5 **THE COURT:** If I'm --

6 **MR. BECRAFT:** -- maybe I'm presuming something too
7 much.

8 **THE COURT:** That's fine. You've seen this before?

9 **THE DEFENDANT:** I saw it in discovery. Go to the
10 top. I can't see what year it's for.

11 **THE COURT:** That's all right. So he saw it in
12 discovery. Now, what's your question?

13 **MR. BECRAFT:** My question is if he's ever seen this
14 before, this letter.

15 **THE COURT:** And the answer is he saw it in discovery,
16 yes.

17 **BY MR. BECRAFT:**

18 Q. Okay. But at the -- this has the date of September 11th
19 of 2014.

20 A. Correct.

21 Q. Did you receive, sometime thereafter, this letter?

22 A. Yes.

23 Q. Okay. And briefly, what did you understand this letter
24 to relate to?

25 A. It's a final notice, a notice of intent to levy, and a

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1 notice for my right to a hearing. "Please respond
2 immediately."

3 **MR. BECRAFT:** Could the witness be shown
4 Government Exhibit 152?

5 **BY MR. BECRAFT:**

6 Q. We have what's been previously admitted in this case,
7 Government Exhibit 152. This is -- is this a letter that you
8 wrote?

9 A. Yes.

10 Q. Dated what? September 29th of 2014?

11 A. Yes.

12 Q. And you wrote this letter to Ginger Wray --

13 A. Correct.

14 Q. -- at the IRS?

15 You sent it certified mail?

16 A. Yes, I did.

17 Q. All right. And is this in response to the previous
18 letter?

19 A. Yes.

20 Q. Okay. Over the years, has the IRS sent to you certified
21 mailings?

22 A. Numerous.

23 Q. In reference to all -- how do you know when the IRS sends
24 to you a certified letter?

25 A. We get a notice at the house. Either the mailman -- if

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1 I'm there, I'll answer the door and get it, or they'll leave a
2 tag on the door.

3 Q. If you -- if the mailman came and he had a certified
4 letter, did you -- do you have any recollection as to ever
5 refusing any?

6 A. No. I've collected every single one I've ever gotten.
7 Sometimes there were a few, two or three, per week.

8 Q. And for those where you were not at home and they left a
9 notice, what did you do in reference to those certified
10 mailings from the IRS?

11 A. Went to the post office the next day and picked it up.

12 Q. Okay. Have you ever deliberately avoided picking up any
13 certified mail from the IRS?

14 A. No, never. That's when you get in trouble.

15 **MR. BECRAFT:** Your Honor, if the Court was going to
16 take a morning break, this is a convenient spot. Is that --

17 **THE COURT:** No. Keep going.

18 **MR. BECRAFT:** Okay. I'll do that.

19 **THE COURT:** You said you were going to finish by
20 10:25. So we'll go to 10:25.

21 **MR. BECRAFT:** Government Exhibit 171. And I've got a
22 series of exhibits in 171 -- 170 series that I'd like to get
23 through, Your Honor.

24 **BY MR. BECRAFT:**

25 Q. We have on the screen Exhibit 171. Did you ever receive

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1 this letter from the IRS?

2 A. I believe so, yes.

3 Q. Okay. And what's your recollection?

4 A. I believe so, yes.

5 Q. All right. Now, would this relate to some prior year of
6 the IRS trying to collect taxes?

7 A. Yeah.

8 **THE COURT:** It speaks for itself.

9 **THE DEFENDANT:** It's --

10 **THE COURT:** What's your question?

11 **BY MR. BECRAFT:**

12 Q. My question is: Can you look at the upper, right-hand
13 corner of this exhibit? Do you see a tax period that this
14 letter relates to?

15 A. Yes. It's still 2003.

16 **MR. BECRAFT:** Could the witness be shown
17 Government Exhibit 173? This has been admitted into evidence.

18 **BY MR. BECRAFT:**

19 Q. What's the date of this letter?

20 **THE COURT:** Again, it speaks for itself.

21 **MR. BECRAFT:** Okay.

22 **BY MR. BECRAFT:**

23 Q. What's your understanding as to the years that this --
24 the letter relates to?

25 A. This is for tax years 2004 through 2009. This is the one

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1 that I never received the NOD.

2 Q. Well, did you receive this letter?

3 A. Yes.

4 Q. Okay. Did you receive the notice of deficiency that's
5 mentioned here in reference to the tax periods ending?

6 A. No, I did not.

7 Q. Once you received this letter, what, if anything, did you
8 do?

9 A. I responded to Michael Freitag and let him know that I
10 did not -- not only did I not receive the NOD, but prior to
11 the collection due process hearing I told him I don't have --
12 I checked my records. I don't have a copy of the NOD;
13 therefore, we don't need to meet because we still need to
14 abate the taxes.

15 **MR. BECRAFT:** Okay. Can the witness be shown
16 Government Exhibit 176?

17 **BY MR. BECRAFT:**

18 Q. Describe what exhibit -- your understanding of what
19 Government Exhibit 176 is.

20 A. It's a request for a collection due process hearing.

21 Q. Do you know what years?

22 A. You have to --

23 **MR. BECRAFT:** Could we be shown the following pages?

24 **BY MR. BECRAFT:**

25 Q. When did you mail this to the IRS?

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1 A. January 23rd of 2015.

2 Q. And what were you seeking to accomplish by making a
3 request for a collection due process hearing when you
4 submitted this document dated January 23rd, 2015?

5 A. It was --

6 **THE COURT:** Rather than requesting a due process
7 hearing?

8 **MR. BECRAFT:** Yes, Your Honor.

9 **THE COURT:** Other than that.

10 **MR. BECRAFT:** I'm sorry? I didn't hear the Court.

11 **THE COURT:** Other than that. I mean, the purpose of
12 this is to request the due process hearing; correct?

13 **MR. BECRAFT:** That is correct, Your Honor.

14 **THE COURT:** All right. That's what the letter says.
15 You're asking is there something more?

16 **MR. BECRAFT:** No, no. I was -- could the witness be
17 shown the third page?

18 **BY MR. BECRAFT:**

19 Q. Did you type this up, the third page?

20 A. Yes.

21 Q. And this CDP request related to what years?

22 A. 1999 to 2000.

23 Q. In the very middle of what we see on the screen in
24 reference to this particular exhibit, can you tell the jury
25 why you would write out what we see there in the middle of the

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1 screen?

2 A. Because those were the items that --

3 **THE COURT:** The screens are down.

4 **COURTROOM ADMINISTRATOR:** That exhibit is not
5 admitted, Your Honor.

6 **THE COURT:** Oh. The exhibit's not admitted?

7 **COURTROOM ADMINISTRATOR:** Correct.

8 **MR. BECRAFT:** I have in my notes --

9 **MR. MAGNANI:** What's the exhibit number?

10 **MR. BECRAFT:** I thought it was --

11 **COURTROOM ADMINISTRATOR:** You said 176.

12 **MR. BECRAFT:** I have 176. Yeah, excuse me. I wasn't
13 familiar with -- I don't see the exhibit numbers on the
14 screen, but what I have been asking questions to is
15 Government Exhibit 176, which I thought was something that we
16 had stipulated to. But if I'm incorrect, I would like to, at
17 this time, offer the admission of Government Exhibit 176.

18 *(Government Exhibit No. 176, offered.)*

19 **MR. MAGNANI:** Without objection.

20 **MR. BECRAFT:** Okay.

21 **THE COURT:** All right. 176 will be admitted then.

22 *(Government Exhibit No. 176, received.)*

23 **THE COURT:** This is 176?

24 **MR. BECRAFT:** Yes, Your Honor. Move for Exhibit 176.

25 **THE COURT:** Go ahead.

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1 **BY MR. BECRAFT:**

2 Q. Now, 176 is dated in January of 2015. What years did it
3 relate to? Is it shown on the screen?

4 A. 1999 to 2000.

5 Q. Okay. What was happening in reference to those years at
6 that time?

7 A. That was in request for a notice of lien that had been
8 filed.

9 Q. Okay.

10 **MR. BECRAFT:** Could the witness be shown
11 Government Exhibit 178, and --

12 **MR. MAGNANI:** Yes.

13 **MR. BECRAFT:** Okay. This one has been admitted,
14 Your Honor.

15 **THE COURT:** All right. 178.

16 **BY MR. BECRAFT:**

17 Q. We have that exhibit on the screen.

18 A. Yes.

19 Q. All right. It has a date on it of February 12th of 2015?

20 A. Correct.

21 Q. Did you receive this in the mail from the IRS?

22 A. That I did receive, yes.

23 Q. Okay. And what was your understanding as to this letter?

24 A. It was a notice of determination for the tax years 2003
25 through 2009.

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1 Q. All right. Now, for the year 2003, I believe you
2 previously testified that you received a notice of deficiency?

3 A. Yeah, but I didn't get the hearing.

4 Q. For the years 2004 through 2009, did you receive a notice
5 of deficiency?

6 A. No. Those years I did not get a notice of deficiency.

7 Q. Did you ever -- and why do you -- what's your
8 understanding as to why you would receive this particular
9 exhibit probably sometime middle of February of 2015?

10 **THE COURT:** How would he know why he should receive
11 this letter?

12 **MR. BECRAFT:** Okay. Let me back up then, Judge.

13 **BY MR. BECRAFT:**

14 Q. Once you received this, would it be sometime shortly
15 after the date of the letter?

16 A. Yes, of course.

17 Q. And what went through your mind? What did you believe
18 was happening at that time?

19 A. Well, I was -- what I believe is I was either missing
20 documents or they were just rolling the process forward
21 without, you know, the proper channels.

22 Q. Mr. Waller, if you had received a notice of deficiency
23 for the years 2004 through 2009, what, if anything, would you
24 have done?

25 **THE COURT:** Well, that's speculation. The evidence

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1 is he didn't receive them.

2 **MR. BECRAFT:** But I think it's admissible to show
3 that -- what he would have done, Your Honor. You know, the
4 government's making a point about it's shown that the notice
5 of deficiency was mailed but returned undelivered, and I think
6 that it's probative of his intentions, if he had received the
7 notice of deficiency, what he would have done.

8 **THE COURT:** Except the government said -- I assume
9 the government says, "We sent you these," and he says, "No, I
10 never received them." I mean, so there we are.

11 **BY MR. BECRAFT:**

12 Q. Well, are you familiar with tax court procedures?

13 A. Yes.

14 Q. Have you ever been to tax court?

15 **THE COURT:** You know, I'm not having him testify
16 about legal matters. I mean, there's no foundation for them.
17 Did you ever go to law school or --

18 **THE DEFENDANT:** No.

19 **THE COURT:** -- study law?

20 **THE DEFENDANT:** No.

21 **BY MR. BECRAFT:**

22 Q. Have you studied -- have you been educated about what to
23 do when you get a notice of deficiency?

24 **THE COURT:** Well, that's a different question.

25 **MR. BECRAFT:** Yeah.

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1 **THE COURT:** How -- what do you mean "been educated"?
2 He hasn't gone to law school.

3 **MR. BECRAFT:** Yeah. But even if you haven't been to
4 law school, there are people that --

5 **THE COURT:** Well, but, see, there's an education;
6 right? A curriculum and all of that at any school, you know,
7 as opposed to somebody just saying, "Yeah. You know what?
8 This is the way it is," and blah, blah, blah.

9 **MR. BECRAFT:** Well, I think it's appropriate for the
10 witness to --

11 **THE COURT:** I'm glad you think it's appropriate, but
12 what's -- how is this relevant now?

13 **MR. BECRAFT:** Well, it --

14 **THE COURT:** What is the government --

15 **MR. MAGNANI:** Your Honor, if the defendant is going
16 to testify that he would have done something in good faith if
17 he received it, the government would not object. And if the
18 Court would allow it, we think --

19 **THE COURT:** Well, I'll allow it then.

20 **MR. BECRAFT:** Okay. Good enough.

21 **THE DEFENDANT:** Yeah. If I would have received it, I
22 would have responded to it like I have any of the other ones
23 in the past.

24 **BY MR. BECRAFT:**

25 Q. And have you heard about tax court before?

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1 A. Yes.

2 Q. Have you been to conferences where people were talking
3 about what to do?

4 A. Yes.

5 **THE COURT:** Well, but that's something different.

6 **BY MR. BECRAFT:**

7 Q. Let me ask you a couple of little -- simple little
8 questions, and I'm going to move on to the last count in this
9 indictment.

10 Does your wife shop at Neiman Marcus?

11 A. Maybe once or twice in her life, but not like the revenue
12 officer was saying, no.

13 Q. All right. Let's move on to the last count of the
14 indictment. I want to kind of quickly move through it.

15 When did you buy that house on Sable Mist?

16 A. 2002.

17 Q. Did you pay cash for it?

18 A. No. I took out a -- it was a ten-year, interest-only,
19 HELOC loan.

20 Q. Did you approach a bank to finance the purchase?

21 A. Yes. It was Wells Fargo.

22 Q. Now, the -- we don't have the deed here, but you went to
23 a closing to buy the house?

24 A. Correct.

25 Q. And the date of the deed would be the date of the

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1 closing?

2 A. Yes.

3 Q. And the financing for you to purchase that house, some of
4 it came from Wells Fargo?

5 A. Correct.

6 Q. How much?

7 A. I believe it was \$464,000.

8 Q. Were there funds that you used to also purchase the
9 house --

10 A. Yes --

11 Q. -- that came from you?

12 A. -- it was 20 percent down.

13 Q. And how much was that in reference to your purchase of
14 the Sable Mist house in 2002?

15 A. I believe it was about \$116,000.

16 Q. All right. So the bank came up with everything but the
17 116,000 that you came up with?

18 A. Correct.

19 Q. What were the terms that you recall that related to the
20 payment -- monthly payment you would have to make to
21 Wells Fargo?

22 A. It was a ten-year, interest-only loan. It was
23 approximately 15 -- \$1,570 a month, but it was interest only.
24 The -- the -- on day 1 the balance was \$464,000. Ten years
25 later, when the property had to be refinanced, it was the same

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1 amount. It was \$464,000.

2 Q. Okay. So from the first payment all the way up until
3 2012, say mid 2012, the payments you were making were what
4 amount every month?

5 A. It was like 15-something every month, but it was just
6 interest. The reason why the principal never went down was
7 because it was an interest-only loan.

8 Q. Okay. The loan that you had at that time was a ten-year
9 loan, and your testimony about when that ten-year loan would
10 expire was -- would be what?

11 A. 2012.

12 Q. Okay. Can you give us a better date?

13 A. I believe it was towards the end of 2012. I think
14 November.

15 Q. Okay. Were you anticipating, say, about, like, September
16 or October that you needed to do something about refinancing?

17 A. Yeah. It was very much on my mind. I had gotten letters
18 saying that that program was ending, and I asked the
19 Wells Fargo Equity Group if we could modify that existing
20 program. And they said no, that that product was no longer
21 available.

22 Q. Okay. Let me back up. This is the first event that you
23 had with Wells Fargo as you're approaching the time that
24 you're going to have to pay off the mortgage?

25 A. Correct.

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1 Q. So you made a contact with the folks at Wells Fargo?

2 **THE COURT:** That's what he testified to.

3 **THE DEFENDANT:** Yes.

4 **BY MR. BECRAFT:**

5 Q. And was there a particular branch of Wells Fargo that you
6 contacted?

7 A. Well, it was the same people I was making payments to,
8 the equity side.

9 Q. Okay. And did you receive any type of response from
10 them?

11 A. Yes. The --

12 Q. Okay. What is it that you learned? When you made that
13 inquiry and you had a conversation with them, what did you
14 learn was the position of Wells Fargo regarding refinancing
15 your house?

16 A. Okay. I couldn't do anything with the current loan
17 because that product was no longer available. I said, I don't
18 have any problem making the monthly payment. My problem is
19 making the balloon, which was \$464,000. I said, I needed to
20 find a program where I could refinance it. And they said,
21 Well, the first thing you have to do is talk to the home
22 preservation side. Because that was the agreement they had
23 with the government. That was where the HAMP and the HAFA and
24 the HARP money was.

25 And I said, Well, I need to get a program the same

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1 way that -- when I bought the house. I didn't have any tax
2 returns. And they said, Okay, well, you have to exhaust HAMP
3 first. And when you exhaust them, then come back to us.

4 Now, the problem with HAMP and HAFA was the package
5 that they give you, it says the very first thing they need is
6 to state the hardship. The second thing was they needed tax
7 returns, which I didn't have. So they basically declined
8 me --

9 Q. Okay. Let me stop you right here. Let's kind of put
10 this in context.

11 **MR. BECRAFT:** Can the witness be shown
12 Government Exhibit 401? And I'd like to review 402, 404, 405,
13 and 406 in the next few minutes. But 401. Could the witness
14 be shown 401?

15 **BY MR. BECRAFT:**

16 Q. Is this a letter from you to Wells Fargo? Or it's from
17 Wells Fargo to you?

18 A. No. It's from Wells Fargo to me.

19 Q. Yes. And the date is September 20th, 2012?

20 A. Yes.

21 Q. All right. And is this the letter that told you about
22 the requirements for refinancing?

23 A. Scroll down.

24 No. She's just basically saying that the loan's
25 coming up due.

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1 Q. Nicole Antisdel is the way I pronounce that name.

2 A. Yeah. She was the home preservation specialist.

3 Q. Okay. Was she the party that you were mentioning a
4 minute ago that was the folks that were dealing with your
5 first contact?

6 A. No. She was on the other side. I was dealing with the
7 people at the equity side first.

8 Q. Okay.

9 A. They were the ones that told me to contact them and
10 exhaust those measures before they could actually refinance
11 me.

12 Q. Okay.

13 **MR. BECRAFT:** Could the witness be shown
14 Government Exhibit 402?

15 **BY MR. BECRAFT:**

16 Q. Did that lady that I just mentioned the name that's hard
17 to pronounce, did she respond and send you this letter of
18 September 27th of 2012?

19 A. Yes.

20 Q. Did she tell you the information you were required to
21 provide?

22 A. Yeah. It's those three bullet points: Explain the
23 hardship, submit the required documentation of your income,
24 and then complete the monthly trial period payments.

25 Q. Okay. What you have just noted for us appears on the

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1 first page of Government Exhibit 402. Well, you can't see --

2 A. I don't see the exhibit --

3 Q. -- the exhibit number, but this is -- I'm going to
4 represent to you that this is Exhibit 402.

5 A. Okay.

6 Q. This is the first page.

7 A. Sure.

8 Q. And these are the representations that we see in yellow?

9 A. Correct.

10 Q. Okay. Thank you.

11 Well, for these conditions that were laid out for
12 you, did you think you could comply?

13 A. No. Because that's the government side, and all of the
14 programs for HAMP and HAFA all required tax returns.

15 **MR. BECRAFT:** Could the witness be shown
16 Government Exhibit 404? Can you blow up the first half of
17 that? Yes. Perfect.

18 **BY MR. BECRAFT:**

19 Q. So the one side of Wells Fargo's wanting you to provide
20 information. Is this letter from you -- this is your letter
21 back?

22 A. To Nicole, yes.

23 Q. The date of it 10/2/2012, October 2nd, 2012; right?

24 A. Yes.

25 Q. Do you see the line on there that talks about tax

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1 returns?

2 A. Yes.

3 Q. Is the line that says, "I have no tax returns for the
4 last two years," is that correct?

5 A. That was correct.

6 Q. All right. Was that one of the conditions in order for
7 you to refinance with HAMP?

8 A. Yes.

9 Q. Well, what about those words right before that?

10 A. Okay. That --

11 Q. "I have not been working for the last two years" --

12 A. Yeah.

13 Q. -- "due to the real estate crash."

14 A. Right. That was incorrect. It was -- and I did not make
15 that statement to the bank in any way to influence a decision
16 either to grant the loan or decline the loan.

17 I said that as a reason to say why I didn't have tax
18 returns as opposed to saying my true position as to why I
19 don't have tax returns, which is there's no law that makes me
20 liable; therefore, I'm not required to file; therefore, I
21 don't have any tax returns. It was just -- I just said I had
22 not been working as if to -- I already knew they were going to
23 decline the loan because I didn't have tax returns. I didn't
24 say it to get the loan, nor did I say it to actually have it
25 decline. I just said it to reference that's why I don't have

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1 any tax returns.

2 Q. All right.

3 **MR. BECRAFT:** Could the witness be shown Government
4 Exhibit 405?

5 **BY MR. BECRAFT:**

6 Q. October 8th of 2012, did you receive this letter?

7 A. Yes.

8 Q. And what's your understanding as to what this letter
9 is -- why it's being sent to you?

10 A. Well, I'd already -- I believe I had already sent the fax
11 saying I don't have tax returns, and I think this was a letter
12 in response saying, We still need your information, we're
13 still requesting additional information from you.

14 Q. Okay.

15 A. I believe that's from Nicole.

16 Q. So for the branch of Wells Fargo that this Nicole lady
17 worked for and you submitted the information, did you get a
18 loan modification?

19 A. No. They declined the loan.

20 Q. All right. What happened after that?

21 A. I went right back to Wells Fargo, the home mortgage side,
22 and he told me -- he's the same guy that said, Go to the home
23 preservation side; you're going to get declined because you
24 don't have tax returns, but you have to exhaust them first.

25 When you're done with them, come back to us, and we will go

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1 ahead and refinance you.

2 And that's what I did, and they refinanced it.

3 **MR. BECRAFT:** Can the witness be shown

4 Government Exhibit 406?

5 **BY MR. BECRAFT:**

6 Q. What's your understanding of 406?

7 A. Well, this was the -- this was the home equity
8 modification agreement. This is where they approved it after
9 I had been declined at the HAMP side.

10 Q. So your ten-year loan was to mature and be due and
11 payable September or October, maybe November, of 2002?

12 A. Correct.

13 Q. Did Wells Fargo refinance?

14 A. Yes, they did.

15 Q. And once the loan was refinanced, what's your
16 recollection as to the terms of this new mortgage?

17 A. The -- the new agreement was actually a -- now it's a
18 40-year fixed, and I believe the -- I'm not sure what the
19 interest rate was, but I know the payment -- oh. Here. The
20 payment went up to \$1,726 whereas the original payment was,
21 like, \$1,500 and some change.

22 So it was ten years for the interest only. Then
23 another 40 years for the modification. So 50 years total.

24 Q. In that period of time during the existence of the first
25 loan, the 2002 through 2012, what was the balance due at all

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1 times --

2 **THE COURT:** He's already testified to that.

3 **MR. BECRAFT:** Okay.

4 **BY MR. BECRAFT:**

5 Q. Did you ever borrow additional funds from Wells Fargo
6 that were a -- added to the amount that you owed on that loan?

7 A. No. It never went above the 464. But there was times
8 that we withdrew, and then it actually -- when Century 21 went
9 bankrupt, we were going to be one of the bidders on it. So I
10 believe we took out money for that, and then we were not the
11 winning bid. So the money actually went right back into it.

12 Q. So at all times, other than that transaction, there was
13 no change in the amount that you owed or had borrowed?

14 A. No. Unless there was any additional principal -- it was
15 always -- you know, the government says that it was always
16 leveraged to the max. That's because that was that type of a
17 loan. The -- since it was an interest-only loan, there was
18 never any principal balance coming often. So it was always
19 basically maxed at the 464.

20 Q. Let me conclude with this. Are you guilty of the crimes
21 charged in the indictment --

22 A. No.

23 Q. -- Mr. Waller?

24 A. No.

25 **MR. BECRAFT:** Nothing further, Your Honor.

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1 **THE COURT:** All right. Why don't we take our morning
2 recess at this time.

3 During this recess, I again admonish you not to
4 discuss this case among yourselves or with anyone else; not to
5 listen to, read, or watch any report of or commentary on the
6 trial, by any person connected with the trial, or by any
7 medium of information, including, without limitation,
8 newspaper, television, radio, or the Internet.

9 And you are not to form or express an opinion on any
10 subject connected with this case until it's finally submitted
11 to you, under instructions from me, for your deliberations.

12 So we'll be in recess for ten minutes. Let's say
13 until 10:45. Twelve minutes.

14 **COURTROOM ADMINISTRATOR:** All rise.

15 *(Jury out at 10:33 a.m.)*

16 *(Recess at 10:33 a.m., until 10:50 a.m.)*

17 *(Jury in at 10:50 a.m.)*

18 **COURTROOM ADMINISTRATOR:** All rise.

19 **THE COURT:** All right. Thank you. You may be
20 seated.

21 Do the parties stipulate to the presence of the jury
22 and the alternates?

23 **MR. BECRAFT:** We do, Your Honor.

24 **MR. MAGNANI:** Yes, Your Honor.

25 **THE COURT:** All right. Call your next witness.

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1 **MR. MAGNANI:** Cross-examination, Your Honor.

2 **THE COURT:** Oh. I'm sorry. I apologize. Yeah. I'm
3 trying to speed things up too much. Cross-examination first.

4 **MR. MAGNANI:** Unfortunately, Your Honor, I don't
5 think we'll finish before lunch.

6 **THE COURT:** I don't expect you to.

7 **CROSS-EXAMINATION**

8 **BY MR. MAGNANI:**

9 Q. Good morning, Mr. Waller.

10 A. Good morning.

11 Q. Now, you are aware of the charges that have been brought
12 in this case; right?

13 A. Yes.

14 Q. And you're aware that, for each of those charges, the
15 government's -- has to prove certain elements?

16 A. Correct.

17 Q. And are you familiar with those elements?

18 A. You could refresh my memory.

19 **THE COURT:** Let me stop you just for a second. Would
20 you all excuse me for just a moment? I left something in the
21 office, in the chambers. I'll be two minutes. I'll be right
22 back.

23 (Pause, 10:52 a.m.)

24 (Resumed, 10:52 a.m.)

25 **THE COURT:** All right. I apologize for the

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1 interruption. I had to get my iPad.

2 All right. Now go ahead, Mr. Magnani.

3 **BY MR. MAGNANI:**

4 Q. I'm not asking you to recite the elements, but are you
5 generally familiar with the different types of things that the
6 government's tried to prove in this case?

7 A. Yes.

8 Q. And do you agree with what Mr. Becraft said in opening,
9 that essentially you only really dispute the intent elements?

10 A. Correct.

11 Q. Okay. Because each of those crimes has a certain intent
12 that the government has to prove?

13 A. Right.

14 Q. And so you've testified about your intent today?

15 A. Yes.

16 Q. But you don't really dispute the other elements for the
17 most part?

18 A. I dispute the fact that I'm liable, but I'm here on good
19 faith.

20 Q. Okay. Well, if you don't mind, if I could just sort of
21 go through some of the facts? I just want to know if you
22 agree or not. I hope these are uncontroversial questions.

23 A. Sure.

24 Q. But you agree that you became an agent in Nevada in '94
25 and then a broker in 2012; right?

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1 A. Yes.

2 Q. And that in the years following, from 2004 onward, you
3 earned commissions as a broker or agent every year?

4 A. Yes.

5 Q. And I believe you said before that the amounts that you
6 earned were accurately reflected on the 1099s; is that right?

7 A. Yes.

8 **MR. MAGNANI:** If I could please show Exhibit 214. I
9 believe this is in evidence and can be shown to everyone.

10 **BY MR. MAGNANI:**

11 Q. So -- and just take a second to look at it, Mr. Waller.

12 Would you agree that the numbers in Exhibit 214 are
13 roughly accurate to the amount of commissions that you
14 received in each of those years?

15 A. I would say roughly accurate, yeah.

16 Q. And would you agree with me that commissions are a type
17 of income?

18 A. Yes.

19 Q. Okay. Now, you also -- you agree that -- the government
20 has proven that -- and you agree with that you haven't filed
21 tax returns from 1999 until present; right?

22 A. Correct.

23 Q. And in 1998, you filed a zero return; right?

24 A. Correct.

25 Q. And you agree that you haven't paid a dollar in tax since

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1 1998; right?

2 A. Correct.

3 Q. And that the IRS has not taken a dollar in tax from you
4 since 1998?

5 A. Correct.

6 Q. But they did try; right?

7 A. Yes, they did try.

8 Q. During the course of the collection efforts, you never
9 met with any of the revenue officers that tried to collect;
10 right?

11 A. No.

12 Q. You often appealed things; is that right?

13 A. I appealed for due process hearings and so forth, yes.

14 Q. You filed a lot of lawsuits?

15 A. I was acting within the legal bounds, yes. That was part
16 of the administrative remedy.

17 Q. So the answer is "yes"?

18 A. Yes.

19 Q. Would you agree that you oftentimes, after filing the
20 initial complaint, you never filed any other pleadings
21 requested by the court?

22 A. Well, there was -- there was some 23 third-party
23 summonses that were actually filed all across the country.
24 Because the summonses were sent out on all these different
25 entities where you had to file in those locations. They

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1 couldn't be done here in Nevada. So since it was so spread
2 out, yes, there was -- we didn't finish them.

3 Q. So the answer is "yes"?

4 A. Yes.

5 Q. And you agree that all of those lawsuits were dismissed?

6 A. Yes.

7 Q. Do you agree that you never gave the IRS any bank records
8 or other documents about your work?

9 A. Yes.

10 Q. Do you agree that you sent letters to banks and
11 Century 21 demanding that they not give any records to the
12 IRS?

13 A. Yes.

14 Q. Do you remember when Revenue Agent Bourne or Bell
15 testified?

16 A. Yes.

17 Q. Do you remember when he was asked questions about
18 conversations he had with I believe it was Debra at
19 Century 21?

20 A. Okay. Yes.

21 Q. Okay. You know who Debra is?

22 A. Yeah. She's deceased.

23 Q. Right.

24 And can you just tell the jury basically what you
25 told Debra when the IRS tried to collect records from her?

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1 A. I told her that, as part of our contract, that she
2 didn't -- she didn't have the right to turn over any books or
3 records, and I had the right to challenge everything
4 administratively.

5 Q. And when you say your contract, do you mean like your
6 employment contract with Century 21?

7 A. There was an agreement with me and Red, the owner.

8 Q. I just want to make sure we're talking about the same
9 thing. Is it -- is this a verbal agreement that you had with
10 Red, or was this just the contract that you signed when you
11 started working --

12 A. I don't think it was in the written contract, but that
13 was -- when this all started happening, I had contact with the
14 owner. Her and I had the discussion.

15 Q. Do you remember when Revenue Officer Soto testified?

16 A. Yes.

17 Q. And do you remember the instance he was testifying about,
18 the two -- the October 2008 levy on one of your bank accounts?

19 A. Yes.

20 Q. When he levied the bank account, you were able to defeat
21 that levy; right?

22 A. That's correct.

23 Q. Because he did it improperly; right?

24 A. Well, it was a fraudulent levy. He actually handwrote
25 the EIN number in where my social security number was and

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1 tried to levy the corporate account for tax claims against me.
2 So I challenged him, sent him a memorandum from his chief
3 counsel saying that what you're doing is illegal as per your
4 chief counsel's own -- even if it's a single-party LLC and
5 that single-party LLC member is the taxpayer, you can't levy
6 one against the other.

7 Q. Do you remember what my question was, Mr. Waller?

8 A. Yes.

9 Q. My question was: Was it an improper levy?

10 Is the answer "yes"?

11 A. Yes.

12 Q. Now, after you were able to defeat -- now, that -- that
13 levy was for tax years before 2004; right?

14 A. I believe so.

15 Q. Well, in October 2008, your taxes for 2004 through '9 had
16 not even been assessed yet; right?

17 A. Correct.

18 Q. So would you agree with me that that levy was for tax
19 years before 2004?

20 A. Yes.

21 Q. And would you agree with me that you never paid any tax
22 for those years?

23 A. Correct.

24 Q. The IRS never got any tax?

25 A. Yes.

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1 Q. And so you essentially were able to defeat their
2 collection efforts?

3 A. Yes.

4 Q. Now, you also would agree with me that the Statute of
5 Limitations for the IRS to collect on many of those past years
6 has expired?

7 A. Yes.

8 Q. And do you remember when Ms. Morgan testified?

9 A. Yes.

10 Q. And I think she said it was about \$700,000 worth of
11 liability that's no longer collectible. Is that your
12 recollection?

13 A. I believe so, yes.

14 Q. Do you agree with that?

15 A. Yes.

16 Q. Okay. So is it -- is it fair to say that you were able
17 to defeat the payment of about \$700,000?

18 A. Yes.

19 Q. Now, I want to talk about your bank accounts.

20 A. Um-hum.

21 Q. Is it correct that you have not used a personal bank
22 account since around early 2006?

23 A. I believe so, yes.

24 Q. About when you -- about in March when you opened the
25 Community Bank account in Burbank Holdings' name?

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1 A. Right.

2 Q. Okay. Now -- and I think you said that you created
3 Burbank Holdings -- I believe you said, quote, It's a
4 protection device. Was that your testimony?

5 A. Correct.

6 Q. And you said that you need the account to -- and correct
7 me if I'm wrong, but I believe you said, quote, Accept funds
8 from clients; is that right?

9 A. It was for all corporate -- yeah. It's all banking.

10 Q. Okay. Can you describe a situation, when working as a
11 real estate agent, when you would have to accept funds from
12 clients?

13 A. Earnest money, deposits. This was prior to the property
14 management when you get into security deposits and rental
15 checks.

16 **MR. MAGNANI:** Could we please pull up Exhibit 202?
17 Now -- and is there another page to this exhibit, or is it
18 just this?

19 **BY MR. MAGNANI:**

20 Q. Now, Exhibit 202, you would agree with me that this is a
21 summary of all deposits in your bank account between 2007 and
22 2009?

23 A. Yes.

24 Q. Would you be able to identify any deposits in those years
25 that were earnest money deposits from clients as opposed to

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1 real estate commissions?

2 A. Not on some of the bigger ones that are lumped in, no.

3 Q. It's just a summary; right?

4 A. Well, if you keep scrolling through, anything there that
5 you think is an earnest money deposit?

6 Q. I saw one for 3,000 even, which could have been.

7 A. Okay. So maybe one?

8 Q. Possibly, yeah.

9 Q. Now, I think you also testified about how you can't
10 commingle -- you said something about how it's improper to
11 commingle funds?

12 A. Commingling with other clients' funds, yes.

13 Q. Okay. Now, you --

14 A. Personal accounts.

15 Q. Okay. Now, you used your Burbank account for business
16 and personal reasons; right?

17 A. Correct.

18 Q. So -- and that was because you didn't have a personal
19 bank account?

20 A. Correct.

21 Q. So you had to use it for those reasons?

22 A. Right.

23 Q. Okay. Now, when you --

24 MR. MAGNANI: If I could have Exhibit 153, please,
25 which is in evidence? And I'm sorry. I don't know the page,

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1 but if you -- oh, actually, could you go to the next page,
2 please? And the next. The next. One more.

3 **BY MR. MAGNANI:**

4 Q. This is a letter that you wrote to Revenue Officer Soto
5 in October 2008; right?

6 A. Correct.

7 Q. Now, when you said that, "As you are aware,
8 William Waller is not Burbank Holdings, LLC," you were making
9 a distinction between yourself, as a person, and your entity;
10 correct?

11 A. Correct.

12 Q. But you would agree that your entity's bank account
13 engaged in both your personal and your business transactions;
14 right?

15 A. Correct.

16 **MR. MAGNANI:** Now, can I please have Exhibit 189?
17 And can we go to the second page, please?

18 **BY MR. MAGNANI:**

19 Q. Now, this is a letter that you sent to Special Agent Peng
20 in 2016; right?

21 A. Right.

22 Q. And in this letter you said that, for tax purposes,
23 single-member LLCs are considered sole proprietorships by the
24 Internal Revenue Service?

25 A. Right.

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1 Q. Do you remember why you were, in this case, saying that
2 you and Burbank Holdings were the same?

3 A. Well, because Burbank Holdings was the only account that
4 actually had bank accounts. The other LLCs were created to
5 hold properties, which never came to fruition.

6 Q. And --

7 A. Burbank Holdings was the only account that was really
8 used on a regular basis.

9 Q. And you -- the entities that -- you had received grand
10 jury subpoenas; is that right?

11 A. Yes.

12 Q. And is it correct to say that the entities never
13 responded?

14 A. We responded with that letter.

15 Q. Well, let me ask a different question. Is it fair to say
16 the entities never gave the documents that were requested of
17 them?

18 A. There was no documents to give. They were just LLCs.

19 Q. So is your testimony that there were no documents to give
20 for Burbank Holdings?

21 A. Well, Burbank Holdings, as I said in the letter, was the
22 only one that was, at the time, legit. The others were...
23 extinct basically.

24 Q. So because you were using the Burbank Holdings account
25 for personal things -- I mean, you've seen the testimony

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1 about, for example, the mortgage payments out of your
2 Burbank Holdings account. Do you agree with that testimony?

3 A. Yes.

4 Q. Okay. I think you also testified about how it was an
5 interest-only mortgage?

6 A. Correct.

7 **MR. MAGNANI:** Could we please have Exhibit 217?

8 **BY MR. MAGNANI:**

9 Q. Now, Mr. Waller, I believe you testified you bought that
10 house with 20 percent down, and then it was an interest-only
11 mortgage for ten years; is that right?

12 A. Yes.

13 Q. And the house is in a gated community; right?

14 A. Correct.

15 Q. Now, I know the amounts changed a little bit over the
16 years, but --

17 **MR. MAGNANI:** And if you could just page through this
18 document, please.

19 **BY MR. MAGNANI:**

20 Q. Would you agree that your interest payments --

21 **MR. MAGNANI:** And you can just keep going,
22 Ms. Burgess.

23 **BY MR. MAGNANI:**

24 Q. -- that your interest payments were roughly \$1,500 a
25 month, sometimes more, sometimes less, and sort of increased

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1 over time?

2 A. Yes.

3 Q. Okay. Now, there was nothing that prevented you from
4 paying more than just the interest; right?

5 A. Other than the fact that we still had to pay taxes and
6 insurance and homeowners dues. It was still a mortgage
7 payment even though it was only interest only, yes.

8 Q. So when you say that you had to pay taxes, what do you
9 mean?

10 A. Property taxes.

11 Q. Okay. So you pay property taxes?

12 A. Yeah. This was just -- that was just the interest
13 payment. There was still property taxes, homeowner's
14 insurance, HOA dues actually to three different entities.

15 Q. Why do you pay property taxes?

16 A. Because it's required.

17 Q. Okay. Can you cite the code section that requires it?

18 A. No.

19 Q. Why not?

20 A. Because it's -- it's required. It's actually part of --
21 it's Nevada -- it's Nevada's law.

22 Q. So, I'm sorry, I don't know if I -- maybe I missed it,
23 but what was the answer to the question about there's nothing
24 that prevented you from paying more than interest on the
25 mortgage? Is that right? Was there anything preventing you?

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1 A. Well, the -- the minimum payment was what we pay.
2 Whatever the -- whatever the payment was on the coupon, that's
3 what we paid.
4 Q. My question is: Was there anything preventing you from
5 paying more?
6 A. No.
7 Q. I think you said on direct -- but please correct me if
8 I'm wrong -- that you said, because of the type of the loan it
9 was, you said it was, quote, Basically always maxed because of
10 the type of loan it was. Is that what you said?
11 A. Yes, it was -- originally it was a 464 draw on day 1, and
12 that's what it was ten years later when it was refied,
13 remodeled.
14 Q. And basically always is not the same as always; right?
15 A. Correct.
16 Q. So you did sometimes pay down the principal?
17 A. Never paid the principal down. Maybe take a draw on it
18 and then put it back in.
19 Q. Well, when you say "take a draw on it," what do you mean?
20 A. Well, there was times where -- I think I had gotten
21 something from my grandfather. We installed it or deposited
22 it, and then withdrew it.
23 Q. So if we go to the first page of this exhibit, you see
24 the 222,000-dollar payment on August 31st, 2006?
25 A. Yeah. I have no idea what that is.

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1 Q. So --

2 A. I don't know where that came from.

3 Q. And I just want to make sure I understand your position
4 on this payment. Are you saying that you think the -- the
5 summary is wrong, or that you just don't remember what it was?

6 A. I have no idea what it is. I mean, that -- what is that?
7 A payment of 222,000 to? I have no idea what that is.

8 Q. Okay. So let me ask you this question. Do you see on
9 December 31st there was a draw of \$60,000?

10 A. Yes.

11 Q. And on January 31st there was a draw of \$50,000?

12 A. Yes.

13 Q. And on June 30th, 2007, there was a draw of \$10,000?

14 A. Yes.

15 **MR. MAGNANI:** Can you go to the next page, please?

16 **BY MR. MAGNANI:**

17 Q. Another draw here on August 31st?

18 A. Yep.

19 Q. For 25,000?

20 A. Um-hum.

21 **MR. MAGNANI:** Next page, please.

22 **BY MR. MAGNANI:**

23 Q. Fair to say that, between December 31st and March 31st,
24 you drew about \$125,000?

25 A. According to that, yeah.

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1 Q. Well, I'm just asking you about if -- if -- if this
2 accurately reflects --

3 A. I don't believe it is. We've never used that loan as --
4 as an ATM --

5 Q. So --

6 A. -- other than on a few occasions, and it usually went
7 right back in. I have no idea what those figures are for
8 other than maybe one or two that -- but the 220 and some of
9 these other ones I don't know.

10 Q. Well, right now let's put the 220 to the side. I'm just
11 sort of asking about the draws. I mean, I guess you said you
12 used it a few times, but you just don't remember all of these?

13 A. Correct.

14 Q. Well, let me ask you this. If you did not pay the
15 principal, what were you drawing on when you made the draws
16 that you do remember?

17 A. The interest.

18 Q. Drawing on the interest?

19 A. There was -- if it was a home equity line, that's all
20 there was. All we ever paid was interest. So whatever we put
21 in over and above was able to be drawn out.

22 Q. But you were -- and maybe I misunderstood. I thought you
23 said you never did make payments over and above and that you
24 didn't know what the --

25 A. No. I said if I ever -- if I ever received a check, then

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1 I would actually put it in above the 464, and then we were
2 always able to draw off of that.

3 Q. So this summary, would you agree, doesn't show any
4 payments against the principal with the exception of the
5 222,000?

6 A. Against the principal, correct.

7 Q. Okay. Now, Mr. Becroft was asking you some questions
8 about the loan modification.

9 A. Um-hum, yes.

10 Q. And, you know, fair to say, as we went over in the
11 beginning, that basically your position is that you did not
12 intend to influence the bank?

13 A. Not in any way.

14 Q. Okay.

15 **MR. MAGNANI:** Can we please pull up Exhibit 402?

16 **BY MR. MAGNANI:**

17 Q. Which I believe you were shown in direct testimony.

18 Now, this is the document -- and I -- I think you
19 testified about this, but I just -- correct me if I'm wrong.
20 Basically the bank asked you to show three different things to
21 qualify for HAMP?

22 A. Correct.

23 **MR. MAGNANI:** And can we please have Exhibit 400?

24 **BY MR. MAGNANI:**

25 Q. And would you agree that the letter that you sent in

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1 response addresses all three of those things?

2 A. Yes.

3 Q. Now, you testified that you knew you couldn't qualify;
4 right?

5 A. Yeah, once I saw the requirements and also from the other
6 bank rep.

7 Q. But you sent this letter anyway?

8 A. Because I had to exhaust that program before I could get
9 refied on the other side, yes.

10 Q. Okay. And you did not just send them a letter that said,
11 Sorry, I can't qualify for this one; right?

12 A. Correct.

13 Q. You did not just say, I made \$400,000 last year, I do not
14 have a hardship, you didn't say that; right?

15 A. Well, my hardship was I didn't have any tax returns.

16 Q. So when you said that you hadn't worked because of the
17 real estate crash, are you saying that you did not intend to
18 tell the bank that your hardship was due to the real estate
19 crash?

20 A. I'd explained this earlier. The reason I said that, it
21 was easier to justify why I didn't have the tax returns as
22 opposed to explaining my position, again, that there was -- I
23 had no liability to pay the income tax; therefore, I had no
24 required filing requirement. I knew it was going to be
25 declined based on the fact I didn't have the documentation for

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1 tax returns.

2 Q. So was the answer "yes"?

3 A. I guess.

4 Q. Well, Mr. Waller, if you can answer the questions yes or
5 no, would you sort of give me and the jury the courtesy of
6 doing that?

7 A. Sure.

8 Q. I mean, I've been fair with you, don't you think?

9 A. Yes.

10 Q. Did I let you explain everything you wanted to explain on
11 direct?

12 A. Yes.

13 Q. Did I object to leading questions?

14 A. No.

15 Q. Okay. So if you could please just do us all the
16 courtesy. If you can honestly answer the question yes or no,
17 would you please just promise me you'd do that?

18 A. With no explanation? Sure. I'll try.

19 Q. If you need an explanation, please let me know.

20 A. Yeah.

21 Q. Now, you were attempting to qualify for -- basically you
22 were seeking credit; right?

23 A. No. I was seeking to remod.

24 Q. Sure. But you needed a new loan because your loan was
25 going to end; right?

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1 A. Correct.

2 Q. Okay. Did you think about telling the bank that you made
3 a lot of money and you could easily cover the payments?

4 A. Okay. See, this is more than a yes-or-no answer.

5 Q. Well, I'm just asking if you thought about telling the
6 bank that?

7 A. No, I did not.

8 Q. Okay. Now, just sort of moving on to your defense, I'd
9 like to move sort of into -- I just want to clarify your
10 position on your defense.

11 The first thing was, I believe you testified on
12 direct that you did a FOIA request in 2012, but then later you
13 were looking at the print date, which was May 2008. I just
14 want to --

15 A. I had -- I'm sorry. Go ahead.

16 Q. It was 2008; right?

17 A. Yes.

18 Q. And the -- the individual master file printouts that you
19 showed, there was -- there was a particular, I guess, code or
20 series of letters and numbers that you testified being
21 particularly important to you; is that right?

22 A. Correct.

23 Q. Would it be fair to say that there were tons of other
24 codes and numbers on the master file?

25 A. Yes.

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1 Q. Would it be fair to say that the master file included
2 numbers about how much tax you owed?

3 A. Yes.

4 Q. And would it be fair to say that there were codes
5 explaining that the tax was assessed and things of that
6 nature?

7 A. Yes. But below that it also had amount due, zero.

8 Q. So --

9 **MR. MAGNANI:** Well, let me -- Mr. Becraft, do you
10 have the --

11 **MR. BECRAFT:** I have the -- I have the hard copies,
12 Your Honor, here.

13 **MR. MAGNANI:** Are they all here?

14 **MR. BECRAFT:** I'm turning them over and haven't got
15 them organized right now, but I have no objection to the
16 prosecution taking this stack.

17 (Conferring with counsel.)

18 **MR. BECRAFT:** The ones that were admitted?

19 **MR. MAGNANI:** Yeah.

20 **MR. BECRAFT:** Okay. I'll do that favor for the
21 government, Your Honor.

22 **BY MR. MAGNANI:**

23 Q. And the exhibits that Mr. Becraft showed you, they had a
24 bunch of things highlighted; right?

25 A. Yes.

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1 Q. Okay.

2 **MR. MAGNANI:** Yeah, that's -- I just want to see the
3 highlights. That's all.

4 **BY MR. MAGNANI:**

5 Q. Now, do you remember Kristy Morgan?

6 A. I believe so. She testified? Yes.

7 Q. And she was the lady from Ogden, Utah?

8 A. Yes.

9 Q. The one who worked for the IRS for 34 years?

10 A. Yes.

11 Q. And do you remember what she explained that code to mean?

12 A. Yes. She said that it was -- the IRS was not required to
13 send out the 1040 booklets, but what she failed to mention was
14 the 1040 was not required to be filed or sent in by me. She
15 didn't -- she didn't say that much. She said that that code
16 had to deal with the service center sending out the booklets,
17 but the other half says 1040 not required to be filed or
18 mailed.

19 Q. Mr. Waller, I know you have a lot to say, but you
20 understand that, when I'm done --

21 A. Okay.

22 Q. -- Mr. Becraft, he can ask you to --

23 A. Sorry.

24 Q. -- elaborate on things that may be important to you.

25 A. Sure.

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1 Q. So please just -- if you could keep to the agreement.

2 So -- and so was the answer that you did -- you do
3 know what she testified it meant?

4 A. Yes.

5 Q. And is it fair to say that her testimony of what it meant
6 is different than what you understood?

7 A. Correct.

8 Q. And as you sit here today, after hearing her testify and
9 talking about her 34 years of experience as a custodian of
10 records and her experience testifying in many trials,
11 including the Irwin Schiff trial, do you not think she's an
12 authoritative source on these matters?

13 A. I'm sure she is.

14 Q. But does it not change your position?

15 A. Not at all.

16 Q. Okay. So as you sit here today, you still believe the
17 code in the computer manual means what -- the -- what you
18 explained?

19 A. Yes. It was actually transcribed by the IRS. I didn't
20 do it. It was -- the IRS sent it to me that way.

21 Q. Okay. I'm not asking if it was transcribed. I'm just
22 asking if --

23 A. Okay. Sorry.

24 Q. Now -- and Mr. Becroft, in opening, he said that the
25 defense was good faith. Do you -- is that what you understand

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1 your defense to be, a good-faith defense?

2 A. Yes.

3 Q. Meaning that you honestly believed -- and I guess still
4 honestly believe -- that you're not required to pay taxes?

5 A. Correct.

6 Q. Okay. But it's not like good-faith reliance on your tax
7 lawyer; right?

8 A. No. It's on my own research.

9 Q. And it's not a good-faith reliance on your CPA?

10 A. Correct.

11 Q. It's just your own research that you've done yourself and
12 you --

13 A. Yes.

14 Q. -- and you've concluded that you're not required to pay
15 tax?

16 A. Yes.

17 Q. So I guess, since you still believe it today, you don't
18 have any intention of filing a 2018 tax return before
19 April 15th?

20 A. If somebody shows me the law that makes me liable, I'll
21 be happy to, and I'll be happy to pay my tax in full.

22 Q. Okay. And that's something that you've had that position
23 for a long time, if someone would show you the law, you'd be
24 happy to pay?

25 A. Correct.

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1 Q. I believe you testified about putting your checkbook on
2 the table --

3 A. That's right.

4 Q. -- during --

5 A. That's right.

6 Q. Sorry. It's just, Ms. McClane, she can't if we both talk
7 at the same time. Just wait.

8 **MR. MAGNANI:** Thank you, Mr. Becraft.

9 **BY MR. MAGNANI:**

10 Q. Basically that you testified before that you had a
11 collections due process hearing in 2001 or '2?

12 A. Yes.

13 Q. And in that hearing you put your checkbook on the table
14 and you said, "If you can show me the law, I'd be happy to pay
15 in full"?

16 A. Correct.

17 Q. And, I mean, you're -- you understand the charges against
18 you, that you're being charged with tax crimes?

19 A. Yes.

20 Q. That doesn't influence your belief about whether the law
21 requires you to pay taxes?

22 A. No.

23 Q. Do you agree with me that the crimes that you're being
24 charged with are real crimes in the United States Code?

25 A. Yes.

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1 Q. Okay. Now, I think you said -- yesterday you said, when
2 you first heard Irwin Schiff, you wanted to go meet him to see
3 if it was true or if -- or if it was just an act for his radio
4 show. Was that your testimony?

5 A. Correct.

6 Q. And I think you said that, within 45 minutes of meeting
7 him, you knew he was for real?

8 A. Yes.

9 Q. And you said it was important to you to find out if he
10 was for real because it could have a big impact on your life
11 if what he was saying was true?

12 A. Yes.

13 Q. And by a big impact on your life, did you mean that, if
14 you didn't have to keep on going on the way you had been
15 filing tax returns, you could save a lot of money in the
16 future?

17 A. No. I didn't look at it that way. No.

18 Q. Please explain.

19 A. I looked at it as, if he was true and there was truly no
20 section in the code that makes me liable for the tax, then
21 that's something that I would be interested in. It had
22 nothing to do with the possibility of making lots of money or
23 never having to pay tax. It was just the fact -- it was
24 standing on the principle on whether or not it was true or
25 not.

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1 Q. So it's not about money for you; it's about the
2 principle?

3 A. That's correct.

4 Q. Okay. Well, would you agree with me that this principle
5 that you believe in has -- has enriched your life in a
6 monetary sense?

7 A. I think my work ethic has enriched my life in a monetary
8 sense.

9 Q. Right. But my question was whether this principle that
10 you believe in and the fact that you haven't filed or paid
11 taxes in 20 years, I'm asking you if that has enriched your
12 life or not.

13 A. Sure.

14 Q. Okay. And you would agree with me that some of that
15 money, about \$700,000, is extinguished now, and so certainly,
16 at least to the tune of \$700,000, your life has been enriched?

17 A. Sure.

18 Q. Okay. About good faith, you talked about how -- I
19 think -- and again, please, if I'm misquoting you. You said
20 that you always accepted your mail from the IRS?

21 A. Yes.

22 Q. You said, if you don't accept your mail, that's where you
23 get in trouble?

24 A. Yeah.

25 Q. Okay. You accepted that mail in good faith?

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1 A. Yes.

2 Q. And is it your testimony that you got all of the mail the
3 IRS sent to you with the exception of one very important
4 document?

5 A. I believe so. I have received every single certified
6 mail I've ever gotten.

7 Q. And that mail -- you heard Ms. Rikke testify; right?

8 A. Yes.

9 Q. And she was cross-examined about the mail system?

10 A. Um-hum.

11 Q. Okay.

12 A. Yes. I'm sorry. Yes.

13 Q. And she said that the package was never received by you;
14 right?

15 A. Correct.

16 Q. You agree with that?

17 A. That's correct.

18 Q. It was unclaimed?

19 A. It was never received, that's right.

20 Q. My question is if it was unclaimed.

21 A. Well, I don't know -- I don't know if it was unclaimed or
22 undeliverable. There's a sticker on there that says, "Route
23 undefined." I don't know.

24 Q. Is there a stamp on there that says, "Unclaimed"?

25 A. I don't -- no, I didn't see that. I saw a "U" with a

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1 finger pointing to the address.

2 Q. Do you know what the post office witness that you
3 intended to call would have said about that finger with the
4 "U"?

5 A. We were told it was undeliverable, route un -- undefined.
6 We tried to subpoena them, and they didn't show.

7 Q. Now, you've never had trouble getting mail at your house
8 before you said?

9 A. Correct.

10 Q. And you said that, when certified mail came, if you were
11 home, you accepted it?

12 A. Correct.

13 Q. But if you weren't home, they'd leave a note; right?

14 A. That's right.

15 Q. And then you would go to the post office and pick it up?

16 A. Correct.

17 Q. I believe you said -- did you say -- and that happened
18 regularly? You went to the post office pretty regularly to
19 pick up mail?

20 A. Well, there was some periods of time, yeah, where there
21 was quite a few, yes.

22 Q. Now, you were showed Exhibit 176, which we can pull up.
23 It's in evidence. The jury can -- this was -- and I know you
24 haven't seen it. Okay.

25 This was your collections due process request; right?

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1 A. Yes.

2 Q. And then you also talked about 178 --

3 **MR. MAGNANI:** Which you can pull up, Ms. Burgess.

4 **BY MR. MAGNANI:**

5 Q. You testified that this was your denial of the
6 collections due process?

7 A. The notice of determination?

8 Q. Yes.

9 A. Yes.

10 Q. Okay. I'd like to ask you about Exhibit 177. You
11 mentioned Michael Freitag during your -- during your
12 examination. He was the appeals officer handling this
13 request; right?

14 A. Correct.

15 Q. And his name's on -- on this exhibit?

16 A. Yes.

17 Q. Yeah. And this was one of the pieces of mail that
18 fortunately you did get; right?

19 A. Yes.

20 **MR. MAGNANI:** If we could please go to the next page
21 of this exhibit, and can you zoom in on the enclosures
22 section, please?

23 **BY MR. MAGNANI:**

24 Q. Now, Mr. Waller, this was not the first time the IRS sent
25 you "The Truth About Frivolous Tax Arguments;" is that right?

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1 A. Correct.

2 Q. And so you've seen that publication before?

3 A. Yes.

4 Q. And it was sent along with -- with this letter?

5 A. Yes.

6 **MR. MAGNANI:** I'm going to apologize to the deputy.

7 I have a copy of that, and it -- I have not given it to you
8 yet, but I have it marked.

9 Can I approach the witness?

10 **THE COURT:** Yes, sir.

11 **MR. MAGNANI:** Okay. And just for the record, I'm
12 going to give a copy to counsel, and I'll approach the bench,
13 if that's okay, if you want a copy, Judge?

14 **THE COURT:** No, sir. No, that's fine.

15 **MR. MAGNANI:** And just for the record, I've marked
16 this for now as Exhibit 195.

17 **THE DEFENDANT:** Thank you.

18 **MR. MAGNANI:** And Mr. Vaglio, if I could have the
19 ELMO, please? So this is -- I'm sorry. Actually Ms. Burgess
20 has it.

21 **COURTROOM ADMINISTRATOR:** Okay.

22 **MR. MAGNANI:** I didn't realize she already got it
23 loaded up. So -- and this has not been admitted yet, so if it
24 could be just for the witness at this time. Well --
25 ///

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1 **BY MR. MAGNANI:**

2 Q. Mr. Waller, you're familiar with this document; right?

3 A. Yes.

4 Q. It's been sent to you before?

5 A. Yes.

6 Q. Sent by -- sent by the IRS?

7 A. Yes.

8 **MR. MAGNANI:** I'd move to admit Exhibit 195.

9 (*Government Exhibit No. 195, offered.*)

10 **THE COURT:** Any objection?

11 **MR. BECRAFT:** No objections to 195, Your Honor.

12 **THE COURT:** The same will be admitted and may be
13 published.

14 (*Government Exhibit No. 195, received.*)

15 **BY MR. MAGNANI:**

16 Q. Fair to say this is a 60-page document sent by the IRS
17 that addresses what at least the -- I understand they may not
18 be frivolous to you but what the IRS has considered frivolous
19 arguments?

20 A. Yes.

21 Q. And could you please tell the jury what's the first
22 section of this argument -- of this mailer about?

23 A. Frivolous tax arguments in general.

24 Q. And can you please tell the jury what (a), the first
25 section, is about?

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1 A. The voluntary nature of the federal income tax system.

2 Q. Did you read this document?

3 A. Years ago, yes.

4 Q. And would you agree with me that, you know, without
5 paging through the whole thing, that it includes numerous
6 court cases?

7 A. Yes.

8 Q. And did you read those cases?

9 A. No.

10 Q. Okay. Would you agree with me that it quotes numerous
11 sections of the code?

12 A. Yes.

13 Q. Did you read those sections of the code?

14 A. I've read many sections of the code, yes. Yes.

15 Q. Well, I guess my question, though, is: Did you read the
16 sections of the code that are cited in the section about the
17 voluntary nature of the federal income tax system?

18 A. I did years ago, yes.

19 Q. Okay. And neither of those cases, nor the sections of
20 the code that the IRS pointed you to, those didn't change your
21 opinion?

22 A. No, because they're not liability sections.

23 Q. So just broadly, I mean, you used to be in the Air Force;
24 right?

25 A. Correct.

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1 Q. So you're aware that the military is a big, expensive --
2 it's not a branch of government, but that it costs a lot of
3 money to run the military?

4 A. Sure.

5 Q. You worked with fighters, bombers, ordnance, that type
6 of thing?

7 A. Correct.

8 Q. And where -- well, where did the money that paid your
9 paycheck come from when you worked in the Air Force?

10 A. From the Federal Reserve.

11 Q. And do you know how the Federal Reserve got that money?

12 A. It was loaned to the government by the Federal Reserve.

13 Q. Well, let me ask you this question. You used to pay
14 taxes; right?

15 A. Correct.

16 Q. And is it true that most people you know pay taxes?

17 A. Most? Yes.

18 Q. Your wife pays taxes?

19 A. Yes, she does.

20 Q. And do her three -- your three stepsons pay tax?

21 A. Yes.

22 Q. And are you aware that that tax money goes to pay for
23 things like the military?

24 A. No. It goes to the -- it goes to the debt.

25 Q. Okay.

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1 A. Not a dollar of it goes to the military.

2 Q. Okay. So all the -- the tax money that's paid by
3 everyone in this country, it's your testimony that that money
4 does not go to anything other than debt?

5 A. Correct.

6 Q. Okay. Now, after -- now, when you were in the Air Force,
7 you received training; right?

8 A. Yes.

9 Q. And after you left that Air Force, you brought your
10 skills to the private sector?

11 A. Correct.

12 Q. You worked for a number of defense contractors?

13 A. Yes.

14 Q. And this was still during the time that you were a
15 taxpayer?

16 A. Yes.

17 Q. Okay.

18 A. Correct.

19 Q. And I think you said -- what was the job you were working
20 when you were -- I think it was 15 when you first started
21 paying taxes?

22 A. The job when I was 15?

23 Q. Yeah.

24 A. I believe I was a dishwasher at a Best Western.

25 Q. Okay. And so from 1981 until 1997, you filed tax returns

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1 and paid taxes?

2 A. Correct.

3 Q. And you used to get refunds; right?

4 A. Well, I paid in a lot more than I got back in a refund,
5 yes.

6 Q. So the answer's "yes"?

7 A. Yes.

8 Q. Okay. When you became a broke -- an agent, that changed;
9 right? No more refunds?

10 A. Correct.

11 Q. The -- in 1994 and 19 -- from '94 through '96, you were
12 just getting started in real estate; right?

13 A. Yes.

14 Q. Is it fair to say that in those years you owed very
15 little tax at the end of the year?

16 A. Yes.

17 Q. Because you were just starting and you weren't -- and you
18 weren't as successful of a real estate agent at that time?

19 A. Yes.

20 Q. And fair to say, in 1997, you were much better at it than
21 you were when you started in '94?

22 A. Yes. '94 it was just -- it was part time.

23 Q. And '95 and '96, still not making much money at it?

24 A. It was still -- the main focus of my job at that time was
25 remodeling homes. I only got the real estate license so we

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1 could sell our properties that we had ready to go.

2 Q. So 1997, the amount of tax that you had to pay at the end
3 of that year was much more than you'd ever paid before when
4 filing a tax return; right?

5 A. I believe so, yes.

6 Q. Would it be fair to say that you didn't like having to
7 cut such a big check to the IRS at the end of that year?

8 A. Sure. Yes.

9 Q. Would it be fair to say that you thought it was unfair?

10 A. No, I wouldn't say that.

11 Q. So you thought it was fair?

12 A. At the time I thought I was liable to pay. So whatever
13 the fair share was, that's what I paid. I wouldn't say it was
14 unfair.

15 Q. Well, let me ask you this. You said a man approached you
16 at -- was it -- it was Charleston, and what was the
17 intersection?

18 A. Fort Apache.

19 Q. Okay. And he shoved a tape through your car window?

20 A. Yes.

21 Q. All right. And you started listening to Irwin Schiff on
22 the radio?

23 A. That minute, yeah. Yes.

24 Q. And you said that was in 1997; right?

25 A. Yes.

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1 Q. Okay. But you didn't pay your taxes for 1997 until 1998;
2 right?

3 A. I believe so, yeah.

4 **MR. MAGNANI:** Could we have Exhibit 496, please?

5 **BY MR. MAGNANI:**

6 Q. Would you agree that your 1997 tax return was filed in
7 July 6th, 1998?

8 A. Yes.

9 Q. So would you agree that at least seven months after that
10 incident you paid \$16,000 in tax?

11 A. Oh yeah. I didn't -- I didn't jump right in until at
12 least a year and a half. I studied for a year and a half
13 before I took the plunge, yes.

14 Q. But having been exposed to this kind of material for
15 seven months, would it be fair to say you were pretty mad
16 about having to write -- I mean, \$16,000, that's -- that's
17 more than a third of your adjusted gross income for that year?

18 A. Yes.

19 Q. Do you believe the tax laws are constitutional?

20 A. Yes, I do. I believe they're misapplied. But, yes, they
21 are constitutional.

22 Q. And so -- and so just I want to make sure I understand.
23 So you think the statutes were properly passed by Congress?

24 A. Yes.

25 Q. But you just think they're interpreted wrong?

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1 A. They're applied wrong.

2 Q. What's the difference between applied and interpreted?

3 A. Well, I guess -- I guess they would be similar.

4 Q. Okay. So when you say that the -- when you say that your
5 understanding is that the tax laws are voluntary, is it kind
6 of like how it's voluntary to -- to give to a charity or
7 something?

8 A. No. It's voluntary in the sense that, if you are subject
9 to the tax, it is not voluntary to you.

10 Q. Okay. And you would agree with me that a levy is an
11 involuntary taking of property; right?

12 A. Yes.

13 Q. And that the IRS sometimes takes -- satisfies tax debts
14 through a levy?

15 A. Yes.

16 Q. And that's not voluntary; right?

17 A. Correct.

18 Q. Okay. Now, you -- you went over -- and these are in
19 evidence -- a bunch of exhibits. It was 501 through 505. Do
20 you remember those?

21 A. Not particularly, no.

22 Q. Those are the -- the newspaper articles that you --

23 A. Oh yes.

24 Q. And there were -- there were a lot of sections
25 underlined?

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1 A. Yes.

2 Q. And fair to say that the underlined sections are the
3 sections that were important to you?

4 A. Correct.

5 **MR. BECRAFT:** Your Honor, I have those exhibits right
6 here if he would tell me which ones?

7 **MR. MAGNANI:** That's okay. These are electronically
8 available?

9 **MR. BECRAFT:** Well --

10 **MR. MAGNANI:** No? Okay.

11 **BY MR. MAGNANI:**

12 Q. Now, you underlined many times -- I think you said -- one
13 of them you said it says no less than seven times that -- the
14 word "voluntary;" is that right?

15 A. Yes.

16 Q. And that one was --

17 A. I believe it was Jerome Kurtz, the IRS commissioner.

18 Q. I believe you're right, sir.

19 **MR. MAGNANI:** And if we could please pull up
20 Exhibit 504? And if it's not available on the computer --
21 I've got notes all over mine so...

22 **MR. BECRAFT:** The copies that were admitted are right
23 here, Your Honor.

24 **MR. MAGNANI:** Thank you. Thank you, Mr. Vaglio.

25 ///

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1 **BY MR. MAGNANI:**

2 Q. Okay. So this is one of the ones that you underlined, I
3 believe you said, seven times that it says "voluntary"?

4 A. Yes.

5 Q. Can you please read the three words after "voluntary"?

6 A. Voluntarily -- voluntarily obeyed the laws.

7 Q. And, sir, do you consider yourself a law-abiding citizen?

8 A. Yes, I do.

9 Q. You obey the laws?

10 A. Yes, I do.

11 Q. Do you obey the laws voluntarily?

12 A. No. They're mandatory.

13 Q. Well, let me ask you this. If no one's -- well, remember
14 when those high school kids were in here?

15 A. Yes.

16 Q. If one of them stood up and started screaming and
17 Judge Mahan banged on the -- you know, banged on the gavel and
18 said, "Order. Be quiet," that kid could voluntarily be quiet;
19 right?

20 A. Yes.

21 Q. If he didn't -- well, if there was a marshal here, a
22 marshal might have taken --

23 **THE COURT:** The marshal just left.

24 **THE DEFENDANT:** With a kid.

25 ///

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1 **BY MR. MAGNANI:**

2 Q. Yeah. The marshal could force that -- that student to
3 comply with the law by removing him from the court?

4 A. Yes.

5 Q. Okay. So no one's forcing you not to rob banks; right?

6 A. Correct.

7 Q. You voluntarily don't rob banks; right?

8 A. Correct.

9 Q. In that context, you voluntarily obey the laws of this
10 country?

11 A. Yes.

12 Q. Okay. Now, you've studied civics at all?

13 A. Back in high school.

14 Q. Well, you've been a student of at least some types of
15 laws, I mean, for 20 years; right?

16 A. Sure.

17 Q. So are you vaguely familiar of, like, the branches of
18 government?

19 A. Yes.

20 Q. Okay. Congress writes the laws; right?

21 A. Yes.

22 Q. The Executive Branch enforces the law?

23 A. Correct.

24 Q. Sorry. You have to say --

25 A. Yes.

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1 Q. And the Judicial Branch, it's their job to interpret the
2 law?

3 A. Yes.

4 Q. And so you know that you can't just interpret laws
5 however you want; right?

6 A. Correct.

7 Q. That the final say is going to be someone in robes;
8 right?

9 A. Yes.

10 Q. Okay. And I just want to talk about -- I know we talked
11 about the Burbank accounts before. I just want to talk about
12 other things -- other types of property.

13 Would you agree with me that, besides your home, you
14 don't own any assets in your name?

15 A. I don't own anything else other than my home, yes.

16 Q. Well, you have a Lexus and a Mercedes; right?

17 A. My wife has a lease on a Mercedes, yes. I have a Lexus.

18 Q. So is the answer yes, you have a Lexus?

19 A. Yes.

20 Q. Okay. The Lexus is in your wife's name?

21 A. No, it's in -- I believe it's in Scottsdale --
22 Scottsdale United --

23 Q. It's not in your name; right?

24 A. No.

25 Q. And do you understand that, if -- if things are in your

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1 name, whether it's a bank account or a car, that the IRS could
2 take it because they believe you owe taxes?

3 A. Yes.

4 Q. And you know that, even though you disagree, the IRS'
5 position is that you do owe taxes; right? You know that?

6 A. Yes.

7 Q. Okay. Do you know what the courts -- and when I say
8 "courts," I just mean broadly United States courts -- do you
9 know what their position is on the tax laws and whether people
10 are liable to pay income tax if they earn over a certain
11 amount?

12 A. Yes.

13 Q. And do you know that their position is that, if a person
14 earns over a certain amount of income, they are -- they are
15 required to pay taxes?

16 A. That's the way they're applying it, yes.

17 Q. And -- and when you say "they," you mean the
18 United States courts; right?

19 A. Yes.

20 Q. Okay. Fair to say you disagree with the way they're
21 applying it?

22 A. Yes.

23 Q. You disagree, that's your testimony?

24 A. Disagree with?

25 Q. The way the courts are applying the law. I just want to

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1 make sure you want to stick with that answer, Mr. Waller.

2 A. Well, ask the question again.

3 Q. You disagree with the way the courts are applying the
4 law?

5 A. I'm saying I dis -- I disagree with the way the laws are
6 being applied, whether it's the court, whether it's the IRS.
7 The tax laws are written fine. It's the way --

8 Q. No. Remember, Mr. Becraft can ask you to explain later.

9 Right now my question is: Do you disagree with the
10 way the United States courts apply the tax law?

11 A. I'm going to say no.

12 Q. You don't disagree? A minute ago you just said you
13 disagreed. I just want to make sure if you want to keep that
14 answer, sir.

15 A. You know, I do want to keep it because I think it is
16 being misapplied.

17 Q. Okay. And just for the record's sake, you think it's
18 being misapplied by the IRS?

19 A. Yes.

20 Q. And it's being misapplied by the United States courts?

21 A. Yes.

22 Q. You testified before about entities that you created in
23 Nevada and Montana?

24 A. Yes.

25 Q. You said the Montana one you never used, but you just

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1 registered it because you thought you might do business in
2 Montana?

3 A. We were going to do some land acquisitions up there, yes.

4 Q. Didn't you also use that Montana entity to -- didn't you
5 list that Montana entity as an officer of a Nevada entity
6 called GB Holdings?

7 A. I believe so, yes.

8 Q. So when you say you didn't use it, you just mean you
9 didn't use it for real estate development in Montana --

10 A. Yeah. Well, the purpose of creating it, we didn't use
11 it.

12 Q. You opened a lot of P.O. boxes for those entities?

13 A. No. Just the one in Montana, and one here in Nevada.

14 Q. Okay. But you didn't use your home address for these
15 entities?

16 A. No.

17 Q. Would you agree that you used a lot of cash between 2007
18 and 2017?

19 A. Yes.

20 Q. Okay. And there was an exhibit that -- do you remember
21 the exhibit that Ms. Rikke showed that --

22 A. Yes.

23 Q. -- was about \$700,000 in cash?

24 A. Yes.

25 Q. Okay.

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1 **MR. MAGNANI:** Can we go back to the computer, please,
2 Mr. Vaglio?

3 If we can go to Exhibit 153, Ms. Burgess.

4 **BY MR. MAGNANI:**

5 Q. And this was one of the ones I was asking you before,
6 Mr. Waller.

7 **MR. MAGNANI:** So page 1, if you could zoom to the
8 last paragraph, I believe it is.

9 **BY MR. MAGNANI:**

10 Q. Now, this was -- and I'm sorry because you don't see the
11 top anymore, but do you remember if this was the letter you
12 wrote to Ginger Wray?

13 A. I don't -- can you scroll up?

14 Q. Sure. Yeah, if you could --

15 A. Yes.

16 Q. Okay. And in the bottom -- and you basically -- is it
17 fair to say that, if she didn't do what you were asking her to
18 do, you would file a complaint in the Treasury Inspector
19 General's Office seeking termination of her employment?

20 A. Yes, because -- yes.

21 Q. Okay. And you remember Ms. Wray from before when she
22 testified?

23 A. Yes.

24 Q. Okay. She's the -- fair to say that you took exception
25 to at least one thing that she said?

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1 A. Yes.

2 Q. Do you remember what that thing was that you took
3 exception to?

4 A. I thought you meant in regards to this letter. On her
5 testimony? No.

6 Q. I'm asking -- yeah. Do you remember she said something
7 about -- you said on direct something about how your wife's
8 probably only shopped at Neiman Marcus once or twice.

9 A. Oh. Yeah. Yes.

10 Q. And Ms. Wray said something different; right?

11 A. Yes.

12 Q. And you take exception to that?

13 A. It was inaccurate. Yeah.

14 Q. Okay. And Ms. Wray, she was the -- she's retired now.
15 She came here from Florida; right?

16 A. Yes.

17 Q. She was the one who testified that it was a summons that
18 brought her here?

19 A. Yes.

20 Q. Now, it is true that your wife had a Nordstrom credit
21 card and spent thousands of dollars on it?

22 A. A Nordstrom credit card, yes.

23 Q. Okay. And Nordstrom and Neiman Marcus are both
24 department stores that start with "N"?

25 A. Yes.

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1 Q. And would you forgive Ms. Wray if she made a mistake in
2 her testimony about that?

3 A. Yeah. If it was a true mistake, sure. Yes.

4 Q. But you're saying you don't believe it was a true
5 mistake?

6 A. Well, that's not what she said. She said Neiman Marcus,
7 so I don't know.

8 Q. Okay. But I'm just asking you, do you think this woman,
9 who's retired and who came here from Florida on a summons --

10 A. Yes.

11 Q. -- who's never met you before -- I just want to
12 understand if you think that this is all people conspiring
13 against you, or if you think she just made a mistake?

14 A. I think she probably made a mistake.

15 Q. Okay.

16 **MR. MAGNANI:** If we could please go to page 5 of this
17 exhibit.

18 **MR. BECRAFT:** I didn't hear the exhibit number.

19 **MR. MAGNANI:** Oh. It's 153, the same exhibit.

20 **BY MR. MAGNANI:**

21 Q. And this was to Revenue Officer Soto; right?

22 A. Yes.

23 Q. And he's -- he also came out of retirement to come here
24 pursuant to a summons to testify in this case?

25 A. Right.

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1 Q. And he testified he couldn't pick you out of a lineup;
2 never met you?

3 A. Correct.

4 Q. In this letter, did you sort of make a similar threat to
5 go to the Treasury Inspector General's Office and seek his
6 termination if he didn't do what you wanted?

7 A. If he didn't do the right thing, yes.

8 Q. Okay. And you mentioned Debra Beckwith (phonetic) before
9 at Century 21?

10 A. Yes.

11 Q. And you called her and demanded that she not -- because I
12 think you said it was a violation of your agreement with Red
13 Wallin --

14 A. Right.

15 Q. -- if she complied with the summons?

16 A. Right. I had administrative actions that would take
17 place first before they would turn over any records.

18 Q. And fair to say that you also called someone at
19 Community Bank and you told them -- and you threatened them
20 not to comply with the -- was it a summons or a levy?

21 A. I believe that was a levy, yeah.

22 Q. Okay. When -- when the -- when you got those grand jury
23 subpoenas for all your entities, you originally wrote to the
24 U.S. Attorney's Office asking for more time to respond; right?

25 A. I believe so, yes.

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1 Q. You asked for about a couple months' more time to
2 respond?

3 A. Yes.

4 Q. Okay. But then ultimately you refused to comply?
5 Remember the exhibit we looked at before?

6 A. Right.

7 Q. And is that right, that you ultimately did not comply
8 with the subpoena and produce the documents that were
9 requested from Burbank Holdings?

10 A. There was no documents, yes.

11 Q. There are no Burbank Holdings documents?

12 A. Well, all the other entities. That was the reason I
13 wrote them.

14 Q. Well, I'm asking about Burbank Holdings.

15 A. The only documents for Burbank Holdings is the LLC and
16 two or three or four bank accounts, correct.

17 Q. Can you remind us what year you married Ms. Bonifatto.

18 A. 2001.

19 Q. Okay. And so, by then, you were a non-filer; right?

20 A. Yes.

21 Q. But she filed every year; right?

22 A. I believe so.

23 Q. She used a return preparer to file?

24 A. I believe so, yes. I'm not sure.

25 **MR. MAGNANI:** Can we please go to Exhibit 6? And

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1 this is in evidence. Could you go to page 4, please? Page 5.

2 Can you please zoom in?

3 **BY MR. MAGNANI:**

4 Q. Do you see where it says, "Paid preparer use only,"
5 Mr. Waller?

6 A. Yes.

7 Q. Do you know who Katherine Hindrichs is?

8 A. No, I don't.

9 Q. Could it be your wife's return preparer at least for that
10 year?

11 A. Yeah, I think that's what it is. I don't know who she
12 is.

13 Q. Your wife now receives social security; right?

14 A. Correct.

15 Q. About \$9,500 a year?

16 A. I guess. I don't know.

17 Q. Well, do you remember when Ms. Morgan testified about the
18 IRP data? Do you remember what IRP data is?

19 A. Vaguely, yeah.

20 Q. Okay. Do you remember the testimony about how the Social
21 Security Administration reported paying her I believe it was
22 around \$9,500 the last few years?

23 A. I believe so, yeah. I just know it's like
24 600-and-something a month, yeah.

25 Q. Okay. So -- so you know the checks just come in every

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1 month; you just --

2 A. Right.

3 Q. -- don't know the total? Okay.

4 Do you pay social security tax?

5 A. No, I don't.

6 Q. Why not?

7 A. Because nobody's withholding.

8 Q. But self-employed people are required to pay social
9 security tax; right?

10 A. If you're liable for the tax, yeah.

11 Q. And you did file tax returns from 1994 through 1997 when
12 you were working as a self-employed person; right?

13 A. Correct.

14 Q. And isn't it true that a self-employed person actually
15 has to pay double the social security tax because they have to
16 pay the employer's side and the employee's side?

17 A. Yes.

18 Q. Okay. And so, I'm sorry, can you please just say again
19 why haven't you paid social security tax from 1998 on?

20 A. Because that's still part of the filing requirement. If
21 I'm not -- if I'm not required to file, I'm not required to
22 report, not required to pay.

23 Q. Okay. So -- okay. But your wife does file and pay. I
24 think you said before you stepchildren, they file and pay?

25 A. Yes. They all choose to, yes.

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1 Q. Your father files and pays?

2 A. Yes.

3 Q. Your co-workers at Century 21 file and pay?

4 A. Yes.

5 Q. The -- do you remember Billie Kohlman and Jimmy Dague's
6 testimony?

7 A. Yes.

8 Q. Do you remember them both testifying that they gave their
9 materials to an accountant at the end of the year?

10 A. Yes.

11 Q. Do you remember when Louis Gentile testified?

12 A. Yes.

13 Q. He said the same thing?

14 A. Yes.

15 Q. In fact, he -- he confessed to making an error on earlier
16 tax returns with regard to rental -- rental home income;
17 right?

18 A. Yes.

19 Q. Okay. But his accountant worked that out, and then he
20 paid the back taxes?

21 A. Yes.

22 Q. Your clients pay taxes?

23 A. Most of them do, yes.

24 Q. Would you agree with me that, in your community of
25 colleagues and clients and families, your view is somewhat of

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1 an outlier view?

2 A. Actually, on the closer circle, less than on the fringe,
3 I would say there's probably more people that are like-minded
4 with me on the inside than on the outside.

5 Q. What do you mean like you on the inside than --

6 A. Some of my closer friends are also non-filers.

7 Q. Can you please tell me their names?

8 A. No.

9 Q. Do you want the judge to order you to tell me their
10 names?

11 Sir, you're familiar with the laws; right?

12 A. Yes.

13 Q. And you're familiar that you have a right not to
14 incriminate yourself; right?

15 A. Yes.

16 Q. And you know that you waived that right when you came to
17 testify; right?

18 A. Yes.

19 Q. And do you know that you don't have a right not to answer
20 questions about other people?

21 A. Yes.

22 Q. Okay. So I would like the names, please, of the people
23 that you know that you consider close friends that don't file
24 tax returns.

25 A. I believe one of them is right here in the room. Peymon

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1 Mottahedeh.

2 Q. Who else?

3 A. I think that's all I know.

4 Q. So it's your testimony that you only know one person that
5 doesn't file tax returns?

6 A. I know others on a first-name basis from different groups
7 and seminars.

8 Q. Did you say something about a close circle that, when you
9 come close, people close to you, a lot of them are non-filers?

10 A. Some of them, yeah.

11 Q. So who, besides Peymon Mottahedeh, is close to you --

12 A. He's the only one I can think of.

13 Q. Sir, you understand that you're obligated to answer the
14 questions truthfully?

15 A. I am answering them truthfully.

16 Q. Okay. So --

17 A. The others are first names.

18 Q. I just want to make sure that it's your truthful
19 testimony that there's only one person that you know the first
20 and last name of that doesn't file tax returns besides
21 yourself?

22 A. Correct.

23 Q. Okay. So to my original question, fair to say, among the
24 people that you know and that are close to you, your friends,
25 your acquaintances, your business associates, your clients,

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1 your family, fair to say that, among those people, your view
2 is an outlier view?

3 A. Yes.

4 Q. Now, in regards to the view, you said that -- you know
5 that, in this case, the United States has to prove that you
6 actually owed taxes for 2004 through 2009; right?

7 A. Correct.

8 Q. And you don't believe that you owe taxes; right?

9 A. Correct.

10 Q. But you do agree that you earned the commissions that we
11 talked about before in all those years?

12 A. Yes.

13 Q. And so do you think, at the end of this trial, the judge
14 is going to say that maybe he doesn't owe taxes based on that
15 income, maybe he does, or do you think you know that he's
16 going to say, If he earned that income, he owed taxes?

17 A. The judge will probably say that I owe the taxes, yes.

18 Q. Okay. And fair to say that's what judges all over this
19 country do?

20 A. Yes.

21 Q. And that's why people get convicted of tax crimes?

22 A. And there's some that don't, yes.

23 Q. Well, let me ask you, have you heard of Michael Cohen?

24 A. Yes.

25 Q. Have you heard of Paul Manafort?

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1 A. Um-hum.

2 Q. You have to say "yes." Sorry.

3 A. Yes.

4 Q. Have you heard of Al Capone?

5 A. Yes.

6 Q. Wesley Snipes?

7 A. Yes.

8 Q. Pete Rose?

9 A. Yes.

10 Q. Fair to say that these folks were all of greater
11 financial means than you?

12 A. Yeah. And I believe they were all filers lying on their
13 returns or --

14 Q. You believe Wesley Snipes was a filer?

15 A. I believe he was until he got involved with -- I forgot
16 the name of the organization, but most of those were filers.

17 Q. So let me understand your position. If you file, you owe
18 tax, but if you don't file, you don't owe tax?

19 A. The ones that get in trouble for the most part are the
20 ones that are filing returns, confessing what they owe, and
21 then their deductions and everything are not adding up.

22 Q. Okay. Well, let me ask you this. Al Capone was
23 convicted of tax evasion; right?

24 A. Um-hum.

25 Q. Mike -- sorry. You have to say "yes."

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1 A. Yes. I'm sorry.

2 Q. Michael Cohen, convicted of tax evasion; right?

3 A. Yes.

4 Q. Fair to say that you're charged with tax evasion?

5 A. Right.

6 Q. And that tax evasion, as we just discussed, requires the
7 government to prove that the person owes tax?

8 A. Correct.

9 Q. Okay. So these people -- and I'm sorry. I don't know if
10 I got the answer. These people all were of greater financial
11 means than you?

12 A. Yes.

13 Q. Fair to say they could afford to buy great legal defense?

14 A. Yes.

15 Q. Okay. Now, are you saying that you, William Waller, real
16 estate broker, that you found some law that the defense teams
17 for Paul Manafort, Michael Cohen, Pete Rose, Wesley Snipes,
18 and Al Capone, that all of their lawyers could not muster how
19 to persuade the courts to accept; is that what you're saying,
20 you found the Holy Grail, sir?

21 A. I can't answer that for them, no.

22 Q. You can only answer it for you?

23 A. Correct.

24 **THE COURT:** Is this a good stopping point?

25 **MR. MAGNANI:** Yes, Your Honor.

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1 **THE COURT:** All right. Let's take our noon recess.

2 During this recess, I again admonish you not to
3 discuss this case among yourselves or with anyone else; not to
4 listen to, read, or watch any report of or commentary on the
5 trial, by any person connected with the trial, or by any
6 medium of information, including, without limitation,
7 newspaper, television, radio, or the Internet.

8 And you are not to form or express an opinion on any
9 subject connected with this case until it's finally submitted
10 to you, under instructions from me, for your deliberations.

11 So we'll be in recess until 1:30.

12 **COURTROOM ADMINISTRATOR:** All rise.

13 *(Jury out at 11:58 a.m.)*

14 *(Lunch recess at 11:58 a.m., until 1:35 p.m.)*

15 *(Jury in at 1:35 p.m.)*

16 **COURTROOM ADMINISTRATOR:** All rise.

17 **THE COURT:** All right. Thank you. You may be
18 seated.

19 Do the parties stipulate to the presence of the jury
20 and the alternates?

21 **MR. BECRAFT:** We do, Your Honor.

22 **MR. MAGNANI:** Yes, Your Honor.

23 **THE COURT:** All right. Mr. Waller, I remind you
24 you're still under oath.

25 **THE DEFENDANT:** Yes, sir.

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1 **THE COURT:** All right. You may resume the
2 examination, Mr. Magnani.

3 **MR. MAGNANI:** Thank you, Your Honor.

4 **THE COURT:** Yes, sir.

5 **BY MR. MAGNANI:**

6 Q. Now, Mr. Waller, you've testified that the -- one of the
7 principal people you relied on was Irwin Schiff; is that
8 correct?

9 A. That's correct.

10 Q. And I believe we were talking before, he's the one that
11 you were introduced to first by radio in 1997?

12 A. Yes, that's right.

13 Q. And was it also -- in 1997, was that the year you met him
14 also?

15 A. Yes, it was.

16 Q. Now, are you aware now that Mr. Schiff was convicted of
17 willful failure to file tax returns in 1980?

18 A. Yes, I was.

19 Q. Did you know that then?

20 A. Right -- right about that time, yes.

21 Q. And do you know now that he was convicted of tax evasion
22 in 1985?

23 A. Yes.

24 Q. Did you know that then?

25 A. About the same time, yes.

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1 Q. And do you know that -- fair to say he's also been held
2 civilly liable for making frivolous arguments in the
3 federal courts?

4 A. Yes.

5 Q. Are you aware of the book that he published?

6 A. Which one? He had several.

7 Q. "The Federal Mafia" book?

8 A. Yes.

9 Q. And are you aware that federal courts enjoined him,
10 prohibited him from selling that book?

11 A. Yes.

12 Q. And that's because they concluded he was sponsoring tax
13 crimes?

14 A. Yes.

15 Q. What the courts concluded. I'm not asking about your
16 opinion.

17 A. Right.

18 Q. Did you read the book?

19 A. Yes, I did.

20 Q. And this is the one where -- in the book he claims that
21 the federal judiciary's corrupt. Do you believe that?

22 A. No.

23 Q. In the book he talks about his convictions; right?

24 A. Yes.

25 Q. And in the book he complains about the instructions that

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1 were given to the jury; is that fair to say?

2 A. Yes.

3 Q. And in the book he includes the instructions that were
4 given to the jury; would you agree?

5 A. I believe so.

6 Q. And did you read those instructions that were given to
7 the jury in his case as they were reproduced in his book?

8 A. That was quite some time ago. I have not looked at it
9 any time recent.

10 Q. You -- you testified in his criminal trial in 2005;
11 right?

12 A. That's correct.

13 Q. And that was -- this was his third criminal trial?

14 A. His second or third, yeah.

15 Q. And in that criminal trial he was convicted of 13 tax
16 felonies?

17 A. I believe so.

18 Q. He was sentenced to 162 months in federal prison?

19 A. Yes.

20 Q. Died in federal prison?

21 A. Yes.

22 Q. Now, besides -- you said that you'd followed him. You
23 also mentioned Joe Banister. Do you remember that?

24 A. Yes.

25 Q. And I think you said he was a criminal investigation

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1 agent like Special Agent Peng; is that right?

2 A. That's right.

3 Q. And he had a background in accounting. He was a CPA,
4 too?

5 A. Yes.

6 Q. And he's no longer a CPA; isn't that right?

7 A. That's right.

8 Q. Because he was stripped of his license; isn't that true?

9 A. That's correct.

10 Q. You mentioned Peymon Mottahedeh?

11 A. Yes.

12 Q. In the courtroom today?

13 A. Yes.

14 Q. Sitting back here, he's been watching this trial?

15 A. Yes.

16 Q. And he's the president of Freedom Law School; right?

17 A. I believe so, yes.

18 Q. Down in Florida?

19 A. Yes.

20 Q. And you say you believe so. Do you know what Freedom Law
21 School is?

22 A. Yes.

23 Q. It's not like a -- accredited -- it's not a
24 degree-granting institution; is that fair?

25 A. Right.

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1 Q. And Mr. Mottahedeh is not a lawyer; is that true?

2 A. Correct.

3 Q. In 2018, did you send Special Agent Peng Joe Banister's
4 book?

5 A. Yes, I did.

6 Q. Did you send him DVDs of Mr. Mottahedeh?

7 A. Yes.

8 Q. Now, about Freedom Law School, they put on various
9 symposia and they talk about taxes?

10 A. Yes.

11 Q. You're aware of them?

12 A. Yes.

13 Q. They do mock trials showing people how to present a
14 willfulness defense; isn't that right?

15 A. I saw one, yes.

16 Q. Okay. So did you attend that program?

17 A. I saw it, yes.

18 Q. Okay. So you watched the program, the mock trial?

19 A. Yes.

20 Q. Okay. And they tell you in that program that it's
21 important to show the jury that you're sincere in your belief;
22 right?

23 A. I believe so, yes.

24 Q. Fair to say that Mr. Mottahedeh's record in the
25 Federal Court is not a winning record?

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1 A. I don't know his record.

2 Q. Are you aware of him ever prevailing in a lawsuit in
3 Federal Court?

4 A. Has he been convicted? I don't know his record.

5 Q. And oh, I'm sorry, to be clear, he's not been convicted
6 of any crimes as far as you know; right?

7 A. I'm not aware, no.

8 Q. Okay. But he's filed many civil lawsuits in the
9 federal courts relating to taxes; right?

10 A. Again, I'm not aware. I don't know.

11 Q. Now, you never consulted a tax attorney. I think -- did
12 we already go over this in the morning? Well, I'll just --

13 **MR. MAGNANI:** I'm sorry. I'll just ask him.

14 **BY MR. MAGNANI:**

15 Q. You never consulted a tax attorney; right?

16 A. No.

17 Q. Never a CPA?

18 A. No.

19 Q. Never went to H&R Block?

20 A. I did when I was a filer.

21 Q. I'm sorry. I should have been more clear. In the period
22 of your time as a non-filer, you never went to H&R Block?

23 A. No.

24 Q. Or a similar tax preparation business?

25 A. No.

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1 Q. So instead you followed the other folks that we've been
2 talking about?

3 A. I followed my own beliefs and my own research, yes.

4 Q. So -- okay. Well, let me -- I guess I don't know if that
5 really answered the question. I think I asked if you followed
6 those people. You said yes, but is the answer no, you
7 followed your own research, or is it yes, that you followed
8 these people?

9 A. It would be both.

10 Q. Both? Okay.

11 A. Relied more on my own research.

12 Q. And I believe on direct, did you say, To this day, no
13 one's been able to show me the law that makes me liable?

14 A. That's correct.

15 Q. Okay. And we mentioned before the time when you put your
16 checkbook down in that CDP hearing?

17 A. Yes.

18 Q. And you told the appeals officer the same thing; right?

19 A. Yes, I did.

20 Q. And you testified about that on direct; right?

21 A. I believe so.

22 Q. Okay.

23 **MR. MAGNANI:** If we could please have Exhibit 351.

24 And this has been admitted.

25 ///

WILLIAM WALLER - CROSS

1 **BY MR. MAGNANI:**

2 Q. This is a lawsuit you filed in Federal Court?

3 A. Yes.

4 Q. Here in the District of Nevada?

5 A. That's correct.

6 Q. Is this the first lawsuit that you filed in
7 Federal Court?

8 A. No.

9 Q. Now, after the -- in this exhibit -- have you reviewed
10 this exhibit before?

11 A. Years ago.

12 Q. Do you know -- if you don't know, I can hand you a
13 physical copy. But do you know if, after this filing, you
14 included a lot of attachments to your --

15 A. Yes, that's correct.

16 Q. Okay. And this was the lawsuit that you filed disputing
17 the frivolous -- the 500-dollar frivolous penalty that
18 Ms. Morgan testified about; right?

19 A. Correct.

20 Q. And so just to go over that, so that was -- you filed the
21 zero return?

22 A. Yes.

23 Q. And the IRS sent you a letter asking -- giving you the
24 opportunity to correct the filing?

25 A. Yes.

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1 Q. And you didn't correct the filing; right?

2 A. Correct.

3 Q. Okay. And after that, a 500-dollar penalty was assessed?

4 A. Yes.

5 Q. And so you requested a CDP hearing?

6 A. Correct.

7 Q. You did not get the satisfaction you were seeking in the
8 CDP hearing?

9 A. No, I didn't.

10 Q. So you filed a lawsuit in Federal Court?

11 A. Yes.

12 **MR. MAGNANI:** Now, if we could please just go to
13 page 16 of this document.

14 **BY MR. MAGNANI:**

15 Q. Now, throughout this trial, you remember Revenue Officer
16 Soto testifying; right?

17 A. Yes.

18 Q. And he was in the general program?

19 A. Yes.

20 Q. And then, do you remember Revenue Officer Ginger Wray
21 testifying?

22 A. Yes.

23 Q. She was in what's called the ATAT program?

24 A. Right.

25 Q. Do you remember what ATAT stands for?

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1 A. Abusive tax shelter something.

2 Q. Abusive Tax Avoidance Transactions?

3 A. Yes.

4 Q. And she said Revenue Officer Soto didn't really have the
5 training or the caseload to be able to deal with complex
6 issues?

7 A. Yes.

8 Q. So before even interacting with a revenue officer in the
9 general program, you were dealing with what's called the --
10 like the automated collections branch; right?

11 A. I don't -- that's what it says, yes.

12 Q. Well, I mean, before actually assigning people to come
13 out and collect things, is it fair to say that, in your
14 earlier disputes with the IRS, it was mostly just automated
15 mailers and things like that?

16 A. Yes, that's correct.

17 Q. Now, there was a hearing -- after you noted your -- well,
18 actually, if we could just go to page 13. This is your
19 request for a collections due process hearing?

20 A. Um-hum, yes.

21 Q. Also known as a CDP hearing?

22 A. Correct.

23 Q. And the hearing was held on August 21st --

24 **MR. MAGNANI:** If we could go to page 18?

25 ///

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1 **BY MR. MAGNANI:**

2 Q. Was the hearing held on August 21st, 2001?

3 A. Yes.

4 Q. And did you bring a tape recorder to that hearing?

5 A. Not a tape recorder. I had a court reporter.

6 Q. Oh. You brought a court reporter?

7 A. Yes.

8 Q. Okay. Is that Beatrice Conner?

9 A. Correct.

10 Q. And you paid for that court reporter to come?

11 A. Yes.

12 Q. It was important for you to have this record transcribed
13 and memorialized?

14 A. Yes.

15 Q. And you also brought an advocate with you, didn't you?

16 A. Yes.

17 Q. Do you remember who that advocate was?

18 A. Cindy Neun.

19 Q. And was Cindy Neun -- well, what was the appeals
20 officer's position, if you remember, about whether Cindy Neun
21 could represent you?

22 A. She -- she could not represent me. She could just be
23 there as a witness.

24 Q. And do you remember why that was?

25 A. Because it was my hearing.

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1 **MR. MAGNANI:** Well let's go to page 20, please.

2 And --

3 **THE COURT:** What exhibit number is this now?

4 **MR. MAGNANI:** It's still Exhibit 351, and we're just
5 on page 20, for the record.

6 **BY MR. MAGNANI:**

7 Q. And at the very bottom third --

8 **MR. MAGNANI:** Can you please blow up the bottom
9 third, Ms. Burgess?

10 **BY MR. MAGNANI:**

11 Q. And is this sort of the discussion where the appeals
12 officer told Ms. Neun that she could not represent you because
13 she was not qualified to represent you?

14 A. Yes.

15 Q. And that was because she's not an attorney?

16 A. Correct.

17 Q. Or a CPA?

18 A. Right.

19 Q. Or an enrolled agent?

20 A. Yes.

21 Q. Do you know what an enrolled agent is?

22 A. One who's enrolled with approval with the IRS.

23 Q. And she wasn't any of those things; right?

24 A. Correct.

25 Q. In fact, wasn't she one of Irwin Schiff's co-defendants

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1 in the trial that you testified?

2 A. Yes.

3 Q. And was she convicted in that trial?

4 A. Yes.

5 Q. Of numerous tax crimes?

6 A. I believe so, yes.

7 Q. Including willful failure to file?

8 A. Yes.

9 Q. Do you know if she went to prison?

10 A. Yes.

11 Q. Now, if we could go to page 28, please. In -- now, and
12 just looking at the bottom half of the page where the agent is
13 talking, do you remember if, during this meeting, the appeals
14 agent, if he gave you court cases to read?

15 A. I believe so.

16 Q. Well, you can take a second, if you want to look at the
17 transcript, if that will help you remember. Starting on
18 line 16.

19 A. Yes.

20 Q. So does that -- does that help you remember?

21 A. Yeah. That was 19 years ago, so yes. Vaguely.

22 Q. Okay. Do you remember -- only if you remember, did you
23 read those cases?

24 A. Back then I did, yes.

25 Q. Okay. But it didn't change your opinion?

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1 A. No.

2 Q. And then if we could please go to the bottom of page 12.
3 This is a -- after you asked him --

4 **MR. MAGNANI:** Just the agent's portion.

5 **BY MR. MAGNANI:**

6 Q. This was after you asked him to basically show you the
7 law --

8 **MR. MAGNANI:** Just one moment, Judge. Sorry.

9 **THE COURT:** Yes, sir.

10 **MR. MAGNANI:** And I'm sorry. Ms. Burgess, is this
11 page 12?

12 **BY MR. MAGNANI:**

13 Q. Well, let me ask you this question. Did -- did he ever
14 cite law to you?

15 A. Did the appeals officer?

16 Q. Yeah.

17 A. He had mentioned -- he didn't show me the section that
18 made me liable, but he did mention other sections and other
19 court cases, yes.

20 **MR. MAGNANI:** If I could just have one moment,
21 Your Honor.

22 **THE COURT:** Yes, sir.

23 **MR. MAGNANI:** And I'm sorry. When I said page 12,
24 that's page 12 of the exhibit. I actually meant, Ms. Burgess,
25 can we go to page 31? I apologize.

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1 **BY MR. MAGNANI:**

2 Q. And in the -- this is where it says above --

3 **MR. MAGNANI:** Well, I'm sorry, could you zoom out for
4 one second? Ms. Burgess, if you could zoom in on the
5 defendant's statement at line -- starting at line 7 to
6 line 12.

7 **BY MR. MAGNANI:**

8 Q. So this is -- this is the part of the hearing where you
9 put the Internal Revenue Code before the agent and sort of
10 challenged -- him or her? I don't know.

11 Do you remember the gender of the appeals officer?

12 A. It was a male.

13 Q. It was a male.

14 So this is when you sort of challenged him, and this
15 is where the -- the court reporter that you brought with you
16 indicated that you placed your checkbook in front of the
17 agent. Do you remember this?

18 A. Yes.

19 **MR. MAGNANI:** And then, Ms. Burgess, if we could
20 please go down to the agent's response?

21 **BY MR. MAGNANI:**

22 Q. And this is -- he said, "I'm glad you mentioned that or
23 asked me these questions. And you might want to take some
24 notes and refer back in your tape." And then he -- and then
25 he quoted a section to you, didn't he?

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1 A. Section 1, yes.

2 Q. Now -- now, here it says Title 26. Do you know what
3 Title 26 is?

4 A. Yes.

5 Q. Is that what is often referred to as the Internal Revenue
6 Code?

7 A. That's correct.

8 Q. And so he quoted the -- the first section of the Internal
9 Revenue Code to you; right?

10 A. Yeah. Section 1.

11 Q. And that's the section that he told you made you liable?

12 A. That's what he said. But Section 1 is the imposition of
13 the tax and the rate of the tax. There is no liability for
14 the tax in Section 1.

15 Q. He also quoted some other sections to you, fair to say?

16 A. Yes.

17 Q. Did you take his advice and refer back to those sections
18 and read them over again?

19 A. Yeah. He was talking Chapter 61, 62, and 63 as far as
20 gross income defined, taxable income, but that's still -- the
21 liability section is not there.

22 Q. So the answer's "yes"?

23 A. Yes.

24 Q. Okay.

25 **MR. MAGNANI:** If we could please go to the next page?

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1 And if you could just zoom in on sort of the top half of it?

2 **BY MR. MAGNANI:**

3 Q. And as you're saying here, I mean, that's what you told
4 him. You said, "Section 1 does not impose the tax."

5 **MR. MAGNANI:** A little lower, please, Ms. Burgess.

6 If we could bring that all the way down to 14?

7 **BY MR. MAGNANI:**

8 Q. You told him your position. "Section 1 doesn't impose
9 the tax liability," and he said, "I know. We disagree on it.
10 We believe Section 1 imposes the tax."

11 Is that right?

12 A. Correct.

13 Q. So fair to say, at that point, you guys sort of hit an
14 impasse?

15 A. Correct.

16 Q. Now, did he give you some other advice that you remember
17 before the end of the meeting?

18 A. I don't recall. You want to scroll down?

19 **MR. MAGNANI:** Well, actually, Ms. Burgess, if we
20 could please jump to page 35? And if I could ask you to zoom
21 in on lines 8 through 14.

22 **BY MR. MAGNANI:**

23 Q. Before the meeting was over, didn't he tell you that you
24 could appeal to the courts but that you risked being
25 sanctioned for making what the courts would consider a

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1 frivolous argument?

2 A. Yes.

3 Q. And, actually, if you...

4 Did he make that -- did he warn you of that multiple
5 times?

6 A. Yes.

7 Q. But you sued in court anyway, right, because this is
8 attached to your filing; right?

9 A. That's correct.

10 Q. So fair to say you were pretty confident you wouldn't be
11 sanctioned by the court?

12 A. That's correct.

13 Q. Okay. Were you treated with respect, did you think, in
14 that meeting?

15 A. In the meeting with the appeals officer? Yes.

16 Q. Yeah. Okay. Generally courteous, we agree to disagree,
17 that kind of thing?

18 A. Yes.

19 Q. Okay.

20 **MR. MAGNANI:** And if we can go back to the first
21 page, please?

22 **BY MR. MAGNANI:**

23 Q. When you filed this lawsuit, in addition to sue to
24 invalidate -- now, this is a lawsuit against the
25 United States; right?

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1 A. Yes.

2 Q. And in addition to suing to invalidate the decision at
3 the CDP hearing, you also asked for some other remedies;
4 right?

5 A. Yes.

6 Q. Do you remember what those remedies were?

7 A. Not at this time, no.

8 Q. Okay.

9 A. Nineteen years ago.

10 **MR. MAGNANI:** If we could go to --

11 **BY MR. MAGNANI:**

12 Q. Well, would it -- only if -- only if you know, were the
13 other remedies that you sought costs and also punitive damages
14 against the United States?

15 A. Sure.

16 **MR. MAGNANI:** And if we could please go to page 7 at
17 the bottom?

18 **BY MR. MAGNANI:**

19 Q. And did you say in your lawsuit, sir, that it is clear
20 that the CDP hearing of August 21st, 2001, was not held in
21 accordance with law and that the determination at issue was a
22 fraud and a mockery?

23 A. Yeah, I did say that.

24 Q. Okay. And I think you testified on direct that the court
25 did deny this lawsuit; right?

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1 A. Yes.

2 Q. Was not a successful lawsuit?

3 A. Correct.

4 **MR. MAGNANI:** Could we please go to Exhibit 353? And
5 if we could go to -- sorry -- the top third of page 2.

6 **BY MR. MAGNANI:**

7 Q. Is this the order denying your lawsuit?

8 A. Yes.

9 Q. And in this the court wrote -- and I'm looking at line 6
10 -- "According to the attached statement, plaintiff's
11 self-assessment was based on the position that there's no
12 statutory income liability that applies to him and that his
13 wages do not constitute income."

14 Is that a fair characterization of your position in
15 your lawsuit?

16 A. That was -- that was his ruling. That's not what was
17 stated.

18 Q. Well, I guess what I'm asking is, in the ruling he says
19 plaintiff, and he describes your position that you did not
20 believe there's a statutory income tax liability?

21 A. Yeah, that's correct.

22 Q. Okay.

23 A. And the two court cases, too, I looked at those. Neither
24 one of them applied to me. One was on privilege, and the
25 other one was on wages as income.

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1 Q. Okay.

2 A. Neither one were -- sorry.

3 Q. No, no. That's -- so -- so you did read those court
4 cases?

5 A. Yes.

6 Q. And they didn't change your view?

7 A. No. Because they didn't apply to me. It wasn't the same
8 case.

9 Q. But the Federal Court here thought that those cases said
10 that courts have found both these positions to be frivolous
11 and patently without merit?

12 A. Yes. And if I may speak, the --

13 Q. Please.

14 A. -- the judge in this case -- the 6330 hearing, one of the
15 items in the hearing said that I could obtain verification
16 from the secretary that all laws and applicable procedures had
17 been met. And maybe it was an honest mistake, but the judge
18 quoted it as saying that at the appeals hearing the IRS is to
19 obtain verification that all laws and applicable procedures
20 have been met. And that's not what the statute says. So I'm
21 sure it was an honest mistake, but that's...

22 **MR. MAGNANI:** Could we please go to page 7?

23 **BY MR. MAGNANI:**

24 Q. Now, the -- fair to say --

25 **MR. MAGNANI:** Actually, let's go to page 3. If we

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1 could just look at the -- I guess the bottom third.

2 **BY MR. MAGNANI:**

3 Q. "Plaintiff's complaint contains a barrage of meritless
4 arguments which he insists the Court must address."

5 Do you remember that, line 16?

6 A. I see it here, yes.

7 Q. Okay. But he does -- to your credit he says there is one
8 genuine issue; right?

9 A. Um-hum, yes.

10 Q. And that was with regards to the procedures used by the
11 IRS; is that right?

12 A. Yes.

13 Q. Okay.

14 **MR. MAGNANI:** And if we could just page through the
15 rest of this exhibit.

16 **BY MR. MAGNANI:**

17 Q. And is it fair to say that the Court went on to sort of
18 address each of those things that you raised in numbered
19 bullet -- you know, one at a time, each of your arguments, he
20 did address those?

21 A. Yes.

22 Q. Okay. But at the end, right here in the conclusion
23 section, the Court ultimately disagreed with you and found
24 that your filing was frivolous; isn't that right?

25 A. That's correct.

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1 **MR. MAGNANI:** And if we look at line -- I guess it's
2 sort of between 15 and 16.

3 **BY MR. MAGNANI:**

4 Q. He said, "Finally, because plaintiff's complaint lacks
5 any merit, had the defendant moved for Rule 11 sanctions, this
6 Court would have freely granted such a motion."

7 Is that right?

8 A. Yes.

9 Q. So -- and the defendant in this case is the
10 United States; right?

11 A. Yes.

12 Q. Do you remember who the judge was in this case?

13 A. I believe it was Dawson. I'm not sure.

14 **MR. MAGNANI:** Well, you can zoom out.

15 **THE DEFENDANT:** Yes. Kent Dawson.

16 **BY MR. MAGNANI:**

17 Q. What do you know about Kent Dawson?

18 A. He was presiding over Irwin Schiff's trial.

19 **MR. MAGNANI:** Just a moment, please.

20 Can I have the ELMO, please?

21 **BY MR. MAGNANI:**

22 Q. Now, you know, when you've been -- so he was the judge,
23 to your memory, that presided over the Irwin Schiff trial --

24 A. I believe so, yes.

25 Q. -- that you testified in?

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1 And that was also the trial with Cynthia Neun, your
2 representative at that CDP hearing?

3 A. Yes.

4 Q. Okay. Now, when you -- I'm showing --

5 **MR. MAGNANI:** And can this be for the witness only?

6 **COURTROOM ADMINISTRATOR:** Yes.

7 **MR. MAGNANI:** Okay.

8 **BY MR. MAGNANI:**

9 Q. I'm showing you what's been marked as Government's 198.
10 What is Government's 198?

11 A. Portraits of some judges here in the building.

12 Q. Are those the three portraits in front of the elevator
13 outside on this floor?

14 A. I believe so, yes.

15 **MR. MAGNANI:** Move to admit this exhibit as a picture
16 of the hallway in this court.

17 **MR. BECRAFT:** Relevance, Your Honor.

18 **THE COURT:** What's the relevance of this?

19 **MR. MAGNANI:** He testified about remembering
20 Judge Dawson. I just want to make sure he has the right
21 person.

22 **MR. BECRAFT:** Pictures of judges? There's no dispute
23 that he's -- the government's not disputing, you know, that he
24 correctly pointed out Judge Dawson. To offer a picture --

25 **THE COURT:** Yeah. I really don't see the relevance

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1 of this.

2 **BY MR. MAGNANI:**

3 Q. Do you -- every day --

4 **THE COURT:** The documents all show that Dawson was
5 the judge; right?

6 **MR. MAGNANI:** Well, we haven't admitted any documents
7 from the Schiff trial.

8 **THE COURT:** Well, I understand that. But you've
9 looked at the decisions; right? And they're all -- they were
10 from Judge Dawson.

11 **MR. MAGNANI:** The order that we were just testifying
12 about in the CDP hearing does have Judge Dawson's -- you know,
13 it's a Judge Dawson order. But in terms of if there's any
14 evidence in the record besides the testimony that -- that the
15 defendant's memory is right that it was Judge Dawson, I don't
16 think there's anything in the record. But it's obviously not
17 a major point, Your Honor.

18 **THE COURT:** I don't think it's that relevant.

19 **MR. MAGNANI:** Okay.

20 **THE COURT:** I don't think it's relevant, I should
21 say.

22 **BY MR. MAGNANI:**

23 Q. So when you've been coming to court every day, you walk
24 past the portraits of those judges; right?

25 A. Yes.

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1 Q. Judge Mahan and Judge Dawson?

2 A. Yes.

3 Q. And you're familiar with both of those judges?

4 A. I am now, yes.

5 Q. And are you familiar that those judges' positions on the
6 law are different than yours?

7 A. Correct.

8 Q. Now --

9 **MR. MAGNANI:** Just one second, Your Honor.

10 **BY MR. MAGNANI:**

11 Q. Now, I know before I think we talked about, in
12 Irwin Schiff's book how he talked about the jury instructions
13 in his trial, and he didn't think those were fair?

14 A. Yes.

15 Q. Have you had the opportunity to talk to your lawyer about
16 the jury instructions in this case?

17 A. We have.

18 Q. And so would it surprise you if the -- if the judge told
19 the jury something like, if the defendant made more than a
20 certain amount in a certain year, he was required to file?

21 A. On the government's jury instruction?

22 Q. Well, I'm asking about the instruction -- would it
23 surprise you if the judge's instruction was that?

24 A. That would be probably one of a few, yes.

25 Q. Okay. Would it surprise you if the judge told the jury

WILLIAM WALLER - REDIRECT

1 that merely disagreeing with the law does not constitute a
2 good-faith misunderstanding because all persons have a duty to
3 obey the law, whether or not they agree with it?

4 A. Correct. That's correct. I agree with the law.

5 **MR. MAGNANI:** I have no further questions.

6 **THE COURT:** All right. Anything on redirect?

7 **MR. BECRAFT:** Briefly, Your Honor.

8 **THE COURT:** Well, don't get my hopes up.

9 **REDIRECT EXAMINATION**

10 **BY MR. BECRAFT:**

11 Q. Mr. Waller, I've got just a few areas I want to talk --
12 touch, and then I want to end it.

13 Do you remember, during this morning's
14 cross-examination by the government, that they brought up
15 Exhibit No. 195, this document about -- titled "Truth About
16 Frivolous Arguments"?

17 A. Correct.

18 Q. Okay. I'm going to ask some questions about that.

19 A. Sure.

20 Q. Do you have a judgment or recollection as to when the
21 first time it was that you saw this?

22 A. Quite a few years ago.

23 Q. Well, about how many? I need a pretty good guess --

24 A. I'd say 10 to 15 years ago.

25 Q. And who provided it to you?

WILLIAM WALLER - REDIRECT

1 A. I got it from the IRS.

2 Q. Was it mailed to you?

3 A. Yes.

4 Q. About sometime in the first decade of this century; is
5 that a fair --

6 A. Yeah, it would be fair.

7 Q. Okay. But you can't recall the specific year?

8 A. No.

9 Q. Have you received it more than one time?

10 A. I honestly don't recall.

11 Q. Have you looked on the Internet to look and see about
12 this book or this publication of the IRS?

13 A. Well, years ago, yes.

14 Q. When you received it, did you sit down and read it?

15 A. I wouldn't say I studied it. I did read through it, yes.

16 Q. Okay. Did you see -- at the time -- the day before you
17 started reading this, what was your belief about your
18 requirement to file federal income tax returns?

19 A. It's still the two issues. It's collected under
20 voluntary compliance, and there's no statutory law that makes
21 me liable.

22 Q. Now, when you read this document, did you see any place
23 in it where what your belief was, was addressed?

24 A. Yes.

25 Q. Well, did you see your belief -- I'm not liable -- talked

WILLIAM WALLER - REDIRECT

1 about in this document?

2 A. I believe so, yes.

3 Q. Whereabouts?

4 A. Oh, I'd have to look through it again.

5 Q. Do you have it in front of you?

6 A. Yeah.

7 Q. Okay. Good.

8 A. The voluntary nature of the federal tax system, the
9 filing of a tax return is voluntary.

10 Q. No. Listen to my question. My question was: Just a
11 moment ago you told me one argument that you have, I'm not
12 liable. Was that argument the subject of any analysis in
13 Government Exhibit 195?

14 **THE COURT:** If you remember.

15 **THE DEFENDANT:** I don't remember. That's why I was
16 looking through.

17 **BY MR. BECRAFT:**

18 Q. Well, looking at the first page of Government
19 Exhibit 195, which is titled "The Truth About Frivolous
20 Arguments," is that a table of contents?

21 A. Yes.

22 Q. Are the second and third pages part of that same table of
23 contents?

24 A. Yes.

25 Q. Now, listen to my question. Look through that table of

WILLIAM WALLER - REDIRECT

1 contents, and do you see any -- anything like a topic being
2 that you're not liable being addressed by this document?

3 A. No. Not on liability, no.

4 Q. Okay. On the first three pages?

5 **THE COURT:** It's been asked and answered. He says
6 no.

7 **MR. BECRAFT:** Yeah. Okay.

8 **BY MR. BECRAFT:**

9 Q. Can you take a quick 30 seconds and just scan through the
10 remainder from page 4 through the end of this document and see
11 if you see anything that does address your arguments.

12 A. Well, the voluntary issue does. Compliance with
13 administrative summons issued. Not in regards to liability.
14 Not yet.

15 Q. Good enough. Are you through?

16 A. Yes.

17 Q. Okay. Good enough. I'll ask my next question.

18 Did you ever know Al Capone personally?

19 A. No.

20 Q. Do you know Pete Rose personally?

21 A. No.

22 Q. Any of those other parties that the government was asking
23 you questions about on direct --

24 A. No.

25 Q. -- do you know them personally?

WILLIAM WALLER - REDIRECT

1 A. No, not at all.

2 Q. How do you know anything about those people?

3 A. Just through --

4 Q. Like Wesley Snipes.

5 A. Just through history and the media.

6 Q. Through the media?

7 A. Sure.

8 Q. Okay. Have you heard, also through the media, parties
9 that are in different circumstances from Al Capone, Pete Rose,
10 Wesley Snipes?

11 A. You mean in regards to victories?

12 Q. Right.

13 A. Yes. Yeah, there's --

14 Q. And what have you --

15 A. -- quite a few.

16 Q. -- heard?

17 A. I'm sorry?

18 Q. What have you heard?

19 A. Oh, there's a list equal in length as far as the ones
20 that have lost to the ones that have won. I mean, there's
21 Vernie Kuglin. There's Tommy Cryer, Whitey Harrell,
22 Joe Banister. There's others that had victories that...

23 Q. Okay. If you had heard through the media that Al Capone,
24 Pete Rose, and Wesley Snipes were convicted, did that have any
25 impact upon your beliefs regarding whether or not you were

WILLIAM WALLER - REDIRECT

1 required to file federal income tax returns?

2 A. No. I don't -- I didn't know what -- if they were
3 filers. I don't know their tax situation. No.

4 Q. Okay. Now, what, if any, impact upon your beliefs did
5 these -- this information you heard through the media about
6 these other parties that you mentioned -- I think you
7 mentioned Vernie Kuglin and Tommy Cryer and others. What did
8 that have upon your beliefs?

9 A. They were actually similar cases. They were non-filers,
10 didn't file returns, and they had victories, yes.

11 Q. Now, at the start of the cross-examination this morning,
12 the government's asking you questions about the elements of
13 this case. One of the counts in the indictment, you're
14 familiar with it, charges you with impeding and impairing and
15 defeating the activities of the IRS. Do you remember that
16 line of questions?

17 A. Yes.

18 Q. And at any stage during the relevant periods we're
19 talking about here, let's say from 1999 all the way up through
20 the end of 2016, did you do anything to impede the functions
21 of the IRS?

22 A. No. I was just acting on my legal right to challenge
23 these assessments, challenge these hearings, these levies,
24 these liens. I didn't do anything to impede. I was just
25 exercising my legal authority.

WILLIAM WALLER - REDIRECT

1 Q. What, if any, thoughts did you ever have -- well, let
2 me -- let me rephrase it this way.

3 At some stage Mr. Soto, his name became known to you.
4 At some stage the name of Justin Bourne became known to you;
5 right?

6 A. Yes.

7 Q. Can you list some of the other names of people you may or
8 may not have met from the IRS during this relevant time frame
9 that you came to know?

10 A. Ginger Wray. Thomas Manaw (phonetic).

11 Q. Any others?

12 A. Not that I can think of.

13 Q. All right. Did you ever intend or plan to go out and, as
14 to those people, do something malicious to them?

15 A. No.

16 **THE COURT:** That's a leading question again.

17 **MR. BECRAFT:** Okay.

18 **THE DEFENDANT:** Do something -- no.

19 **BY MR. BECRAFT:**

20 Q. What, if any, plans did you make to impede any of those
21 parties?

22 A. I never intended to do any impeding whatsoever. Like I
23 said, I was just acting on my legal authority, whether through
24 the administration side of the IRS or through the legal side,
25 through the courts, just exercising my rights.

WILLIAM WALLER - REDIRECT

1 Q. All right. Now, you were also asked by the government
2 this morning, during your cross-examination, about defeating
3 the IRS. And I'm not going to repeat the same names, but did
4 you ever have any plan to -- what, if any, plan did you have
5 to, quote, defeat the people I just named or any others?

6 A. I never had a plan to defeat anybody. I didn't -- you
7 know, the tax liens that they were talking about, they just
8 expired. The one for, what, \$700,000, that was ten years, and
9 it just fell off. I never planned on defeating anybody or
10 impeding, for that much.

11 Q. All right. Now, do you have -- off the top of your head
12 right now, as you sit there, what, if any, memory do you have
13 about when that lien expired?

14 **THE COURT:** What lien is that now?

15 **MR. BECRAFT:** The one he just mentioned, which would
16 be prior to 2004, for 2003 and before.

17 **THE DEFENDANT:** I believe it was 2013 or 2014.

18 **BY MR. BECRAFT:**

19 Q. So as you sit there, what's your knowledge about when
20 that lien expired?

21 A. What's my knowledge about it?

22 Q. Yeah.

23 A. Just that it -- the time limit had elapsed on it, and
24 it -- it was -- it's supposed to be 10 years and 30 days, and
25 I think that time limit had expired. And I got a notice from

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1 the county recorders that it had dropped off.

2 Q. Okay. At some stage you first learned about that lien.

3 Am I correct?

4 A. Yes.

5 Q. Now, from that point in time, whenever that was that you
6 learned, until you got this notice from Clark County --

7 A. Yes.

8 Q. -- between those two times, can you tell us everything
9 that you did to defeat the IRS in the collection of that tax
10 lien?

11 **THE COURT:** Well, he said he didn't.

12 **THE DEFENDANT:** I didn't.

13 **BY MR. BECRAFT:**

14 Q. Okay. What would it take to get you to file income tax
15 returns?

16 A. Well, the same thing I've been asking for 20 years. If
17 somebody can show me -- somebody show me the statute in text
18 that makes me liable to pay the tax, I would get back into the
19 system, and I would pay the tax.

20 **MR. BECRAFT:** Nothing further, Your Honor.

21 **THE COURT:** Recross?

22 **MR. MAGNANI:** Just very briefly.

23 **RECROSS-EXAMINATION**

24 **BY MR. MAGNANI:**

25 Q. Mr. Waller, Mr. Becraft asked you --

WILLIAM WALLER - RECROSS

1 **THE COURT:** Come up so we can -- I want to be sure we
2 get you on record.

3 **BY MR. MAGNANI:**

4 Q. You just testified on redirect about victories that
5 you've heard of; right?

6 A. Yes.

7 Q. That was your word, "victories"?

8 A. They won in court, yes. They were acquitted.

9 Q. Right. So you mean these are people who were acquitted
10 of tax crimes?

11 A. Yes.

12 Q. And you're hoping to follow in their example, fair to
13 say?

14 A. Yes.

15 Q. And in this case you put -- you're putting on a
16 willfulness defense; is that right?

17 A. Yes.

18 Q. And so is that why, in preparing for your defense today,
19 you attended those Freedom Law School -- or you watched those
20 Freedom Law School seminars where they do mock trials and try
21 to teach people how to persuade a jury --

22 A. That had nothing --

23 Q. -- not to appear willful?

24 A. No, that had nothing to do with it.

25 Q. Nothing to do with it?

WILLIAM WALLER - RECROSS

1 A. No.

2 Q. Okay.

3 **MR. BECRAFT:** Nothing further. And the defense
4 rests, Your Honor.

5 *(End of excerpted proceedings at 2:16 p.m.)*

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7 COURT REPORTER'S CERTIFICATE

8
9 I, AMBER M. MCCLANE, Official Court Reporter, United
10 States District Court, District of Nevada, Las Vegas, Nevada,
11 do hereby certify that pursuant to 28 U.S.C. §753 the
12 foregoing is a true, complete, and correct transcript of the
13 proceedings had in connection with the above-entitled matter.

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15 DATED: 3/25/2019

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/s/ 
AMBER M. MCCLANE, CCR NO. 914

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